

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 22455  
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 )  
Petitioners. ) DECISION  
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\_\_\_\_\_ )

[Redacted] (taxpayers) protested the Notice of Deficiency Determination dated October 7, 2009, asserting income tax, penalty, and interest in the total amount of \$48,440 for taxable years 2005 through 2007. The taxpayers disagreed with the determination of their Idaho taxable income for each of the years. The Tax Commission, having reviewed the file, hereby issues its decision.

**BACKGROUND**

As part of the Tax Commission’s discovery program, the taxpayers were identified as individuals who had a requirement to file Idaho individual income tax returns for taxable years 2005 through 2007 but had not filed income tax returns for those years. The Tax Discovery Bureau (Bureau) sent the taxpayers letters asking them about their requirement to file Idaho individual income tax returns but did not receive a response from the taxpayers. The Bureau obtained additional information [Redacted], prepared income tax returns for the taxpayers, and sent them a Notice of Deficiency Determination.

The taxpayers protested the Bureau’s determination stating that the information [Redacted] employer reported on the 1099s they received were incorrect. The taxpayers stated that the settlement statements [Redacted] received do not even come close to the totals submitted on the 1099s. The taxpayers stated they ran into a road block when trying to decipher the problem because their accountant lost or destroyed their 2005 settlement statements. The taxpayers stated

[Redacted]employer was not helpful and that they have been struggling with health and family issues. The taxpayers asked for additional time to get things straightened out so that they could file their income tax returns.

The Bureau allowed the taxpayers sufficient additional time but received nothing from the taxpayers. And when the taxpayers stopped communicating with the Bureau, the Bureau determined it was time to move the matter to administrative review.

The Tax Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. The taxpayers asked to have a telephone hearing. A hearing was scheduled and held on October 6, 2010. During the hearing, the taxpayers stated they did not know what to do for taxable year 2005. They were still having problems getting the information they needed from [Redacted] employer. The taxpayers stated taxable years 2006 and 2007 should be to their accountant by the end of the month. The taxpayers asked for additional time to get their returns prepared and submitted to the Tax Commission. On April 18, 2011, the Tax Commission received the taxpayers' income tax returns for taxable years 2005 through 2010.

### **LAW AND ANALYSIS**

The Tax Commission reviewed the taxpayers' 2005 through 2007 income tax returns and found that they portrayed the taxpayers' taxable income better than the returns prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayers' 2005, 2006, and 2007 returns in lieu of the Bureau's returns, subject to the normal review processes of the Tax Commission.

The taxpayers' 2006 and 2007 returns resulted in refunds. Generally, Idaho Code section 63-3072 would prohibit crediting or refunding the claimed refund because it was not made within three years of the due date of the return. However, because the Tax Commission issued a Notice of Deficiency Determination within the three-year statute of limitations for each

of the years and the taxpayers protested the Notice of Deficiency Determination, the period of limitations was suspended until the final resolution of the deficiency determination. (Idaho Code section 63-3072(i).) Therefore, since the period of limitations is still open, the taxpayers are entitled to the refunds claimed on their 2006 and 2007 income tax returns.

**CONCLUSION**

The returns the taxpayers submitted present a more accurate representation of the taxpayers' Idaho taxable income. Therefore, the Tax Commission accepted the taxpayers' 2005 through 2007 income tax returns. The taxpayers' refunds for 2006 and 2007 are applied to taxable year 2005 to offset the tax due for that year. (Idaho Code section 63-3072.)

THEREFORE, the Notice of Deficiency Determination dated October 7, 2009, and directed to [Redacted] is AFFIRMED AS MODIFIED by this decision.

IT IS ORDERED that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$251	\$63	\$92	\$406
2006	(70)	0	0	(70)
2007	(70)	0	0	<u>(70)</u>
			BALANCE DUE	<u>\$266</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2011, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.

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