

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22639
[Redacted],	)	
	)	
Petitioners.	)	DECISION
_____	)	

[Redacted] (taxpayers) protested the Notice of Deficiency Determination issued by the staff of the Idaho State Tax Commission (Commission) dated December 15, 2009, asserting additional Idaho income tax for taxable years 2001, 2002, 2003, 2006, 2007, and 2008 in the total amount of \$16,329.

The issues in this docket are whether the Commission had authority to determine there were deficiencies of tax for the taxable years at issue and whether the taxpayers were required to file Idaho income tax returns for those years.

**BACKGROUND FACTS**

The taxpayers were residents of Idaho during the years at issue and did not file Idaho income tax returns for those years. They did file Idaho income tax returns in 2004 and 2005. A review of [Redacted] information and the 2004 and 2005 Idaho income tax returns showed that [Redacted] did business as [Redacted], a sole proprietorship.

[Redacted] income tax information was used to determine the Idaho tax deficiencies for taxable years 2001, 2002, and 2003. The taxpayers filed [Redacted] income tax returns for taxable years 2001 and 2003. Their [Redacted] Adjusted Gross Income for taxable year 2001 was \$57,667 and for taxable year 2003 was \$58,358. The Commission used these [Redacted] returns to determine the deficiency in Idaho tax for taxable years 2001 and 2003. The Adjusted Gross Income from taxable years 2001 and 2003 was averaged to determine the deficiency in Idaho tax for taxable

year 2002.

A credit application filled out by Mr. [Redacted] was used to determine the Idaho tax deficiencies for taxable years 2006, 2007, and 2008. The Commission served a summons to obtain a copy of a credit application that Mr. [Redacted] had filled out to purchase an automobile. In the credit application, Mr. [Redacted] indicated that his monthly income was \$5,000. Thus, the Commission used a yearly Adjusted Gross Income amount of \$60,000 to determine the deficiencies of tax for 2006, 2007, and 2008.

The taxpayers have challenged the validity of the notices of deficiency determination for the first three years saying that they were outside the statute of limitations. They also have challenged the validity of the deficiency determinations for taxable years 2006, 2007, and 2008. The taxpayers have also raised objections to the requirement to file Idaho income tax returns.

#### LAW AND ANALYSIS

Idaho Code section 63-3030 requires that every Idaho resident who is required to file a federal income tax return must also file an Idaho income tax return. Section 6012(a)(1) of the Internal Revenue Code requires individuals to file an income tax return if their gross income is equal to or exceeds the amount set forth by the Code. For a married couple, under 65 years old, filing jointly, that filing requirement amount was \$13,400 for 2001, \$13,850 for 2002, \$15,600 for 2003, \$16,900 for 2006, \$17,500 for 2007, and \$17,900 for 2008.

The information gathered regarding the gross income of the taxpayers shows that the taxpayers exceeded these amounts and, therefore, were required to file Idaho income tax returns pursuant to Idaho Code section 63-3030.

The Commission is authorized to determine a deficiency of Idaho tax. Idaho Code section 63-3045(1)(a) states:

If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer.

Idaho Code section 63-3068(a) establishes a statute of limitations requiring a notice of deficiency to be “issued within three (3) years from either the due date of the return, without regard to extensions, or from the date the return was filed, whichever is later.” However, there is no statute of limitations when no return was filed. Idaho Code section 63-3068(d) states:

In the case of a failure to file a return, for any reason, a notice of deficiency may be issued, the tax imposed in this chapter may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

The Commission had authority to determine deficiencies of Idaho tax for taxpayers for taxable years 2001, 2002, 2003, 2006, 2007, and 2008. Because the taxpayers did not file Idaho income tax returns for these years, there is no statute of limitations prohibiting the Commission from issuing notices of deficiency.

#### CONCLUSION

WHEREFORE, the Notice of Deficiency Determination dated December 15, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest (computed to March 17, 2011):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$2,627	\$657	\$247	\$ 3,531
2007	2,688	672	425	3,785
2006	2,746	687	627	4,060
2003	1,039	260	427	1,726
2002	1,054	264	489	1,807
2001	1,128	282	596	2,006
			TOTAL DUE	<u>\$16,915</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 \_\_\_\_\_ 2010.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

### CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2010, 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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