

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22742
[REDACTED],)	
)	DECISION
Petitioners.)	
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)	

On January 29, 2010, the Income Tax Audit Division (ITA) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioners) proposing additional income tax, penalty, and interest for taxable years 2006 and 2007 in the total amount of \$2,199.

A timely protest and petition for redetermination was filed by the petitioners. The petitioners have not requested a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioners were issued an NOD by the Commission [Redacted]. [Redacted] The ITA, therefore, issued an NOD based on that information and adjusted the petitioners' Idaho return. The Commission finds that the ITA correctly recomputed the petitioners' tax liability [Redacted].

In the petitioners' protest letter dated March 30, 2010, the petitioners stated:

This is to protest the determination regarding the federal audit that resulted in our owing the Idaho state tax commission additional tax.
The Federal Audit did not require us to owe more federal taxes and we were not advised by the Federal auditor that we were required to contact the state regarding our audit.
We assumed that since the Federal Audit did not change the amount of tax we owed that likewise our state returns would not require extra payment. Our income status has been adversely affected in 2008 – 2009 and we are not able to pay this amount of taxes.
We request a redetermination.
Your assistance is appreciated.

The ITA sent the petitioners a letter dated April 5, 2010, which stated that the ITA's

auditor's review of the on-line [Redacted] information indicated that the full amount of the additional tax and interest assessed [Redacted] was paid [Redacted] in May and July 2009. The auditor stated that the presumption is that the adjustments reported in the NOD, which were based upon the adjustments reported in the final federal determination received [Redacted] per Idaho Code sections 63-3002 and 63-3069, are correct. The auditor stated that if the [Redacted] modified or cancelled the petitioners' original audit of their returns for taxable years 2006 and 2007, they would need to provide him with copies of the corrected [Redacted] audit report. The auditor stated that he would retain the petitioners' file since the additional documentation to be provided to resolve the issue protested was not currently available. The ITA requested the petitioners provide the information by April 26, 2010. If the petitioners' issues could not be resolved in the ITA, their file would be transferred to the Commission's Legal/Tax Policy Division for further review.

On July 2, 2010, the tax policy specialist (policy specialist) sent the petitioners a letter to inform them of the alternatives for redetermining a protested NOD.

On November 17, 2010, the policy specialist spoke with [Redacted] concerning the petitioners' NOD from the state for taxable years 2006 and 2007. [Redacted] was not happy that they still owed the state and requested a copy of the NOD.

The requested information was sent to the petitioners on November 17, 2010, which included a copy of the NOD, protest letter, auditor's letter dated April 5, 2010, audit summary, and [Redacted] transcripts for 2006 and 2007.

On January 4, 2011, the petitioner's [Redacted] for taxable years 2006 and 2007 showed the [Redacted] had not abated the additional tax assessed. The transcripts also showed that the [Redacted] used the petitioners' 2007 refund to pay-off their liabilities from their [Redacted] audits for taxable years 2006 and 2007, and the petitioners made a payment.

Idaho Code § 63-3002 states that it is the intent of the Idaho Legislature, insofar as possible, to make the Idaho Income Tax Code identical to the Internal Revenue Code in the way taxable income is determined. Idaho Code § 63-3069 states that, upon a final determination of any deficiency or refund of federal taxes, written notice shall be immediately sent to the State Tax Commission by a taxpayer. IDAPA 35.01.01 Income Tax Administrative Rule 890.03 states that immediate written notification is required within 60 days of the final determination.

From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho Legislature intended any changes made to a taxpayer's federal return to be reflected on the taxpayer's Idaho return. Therefore, it is the Commission's position that the changes made to the taxpayer's federal return must be made to the taxpayer's state return.

The petitioners have the burden of proving the adjustments were incorrect. The petitioners would like the Commission to re-audit [Redacted]. The Commission's position is that the petitioners must be granted relief at the federal level before relief can be granted at the

state level. The petitioners have failed to carry the burden in this matter.

Since the petitioners have not provided the Commission with a contrary result [Redacted], the Commission must uphold the deficiency as asserted.

WHEREFORE, the Notice of Deficiency Determination dated January 29, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that petitioners pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$927	\$46	\$226	\$1,199
2007	909	45	157	<u>1,111</u>
			TOTAL DUE	<u>\$2,310</u>

Interest is calculated through August 16, 2011.

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

DATED this ____ day of _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

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

[Redacted]

Receipt No.
