

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 22907
[Redacted],)
)
)
) Petitioners.) DECISION
)
_____)

[Redacted] (petitioners) protested the Notice of Deficiency Determination issued by the staff of the Idaho State Tax Commission (Commission) dated March 17, 2010, asserting additional Idaho income tax, interest, and penalties for taxable years 2004, 2005, 2006, and 2007 in the total amount of \$28,756.

The issues in this docket are whether the petitioners were required to file Idaho income tax returns for 2004, 2005, 2006, 2007, and whether they owed Idaho income tax for these taxable years.

BACKGROUND FACTS

The petitioners failed to file Idaho individual income tax returns for taxable years 2004, 2005, 2006, and 2007. The Commission’s Tax Discovery Bureau (Bureau) obtained income information from the [Redacted] as well as Idaho driver’s license information. Petitioner husband has held an Idaho driver’s license since 1992. Petitioner wife has held an Idaho driver’s license since 1991. For taxable year 2004, the petitioners filed a [Redacted] income tax return showing an Idaho address and reporting an Adjusted Gross Income of \$69,468. For taxable year 2005, the petitioners filed a federal income tax return showing an Idaho address and reporting an Adjusted Gross Income of \$59,216. For taxable year 2006, the petitioners filed a federal income tax return showing an Idaho address and reporting an Adjusted Gross Income of \$68,362. For taxable year 2007, [Redacted] records indicate that the petitioners did not file a [Redacted] tax return. However,

for taxable year 2007: a Form 1099S was issued showing income of \$230,000 from the sale of property; a W-2 form was issued showing \$49,505 of income for petitioner wife; a 1099R was issued showing \$1,838 of income; another 1099R was issued showing \$3,170 of income; the petitioners' partnership income was estimated based on the previous three years. Using the federal information, the Bureau issued a Notice of Deficiency Determination (NODD) for taxable years 2004 through 2007.

The Commission mailed the NODD by Certified Mail on March 17, 2010. A letter of protest was received by the Commission on May 20, 2010, stating:

We are in disagreement of the taxes owed for 2007. We will have the 2007 return to you by the end of this month. We will also resend copies of the missing returns to you shortly. Thank you for the opportunity to take care of this matter.

As of November 17, 2010, the Commission had not received any tax returns or further communication from the petitioners. On November 17, 2010, the Commission mailed the petitioners a letter via Certified Mail informing them of their right to an informal hearing and stating that if the Commission received no response within 30 days, a decision may be issued. On January 10, 2011, having received no communication from the petitioners, the Commission sent another letter reminding them of their right to a hearing and requested that they respond within 10 days or else the Commission would issue a decision. On January 24, 2011, the Commission received a letter signed by petitioner husband stating:

We will have a return filed for our 2007 tax year by February 25, 2011. I apologize for the procrastination on my part. We have been trying to keep our heads above water during this economical situation.

On March 4, 2011, having received no returns or further communication from the petitioners, the Commission sent a letter requesting that the petitioners contact the Commission soon or a decision would be issued.

On April 5, 2011, still having received no returns or further communication from the petitioners, the Commission sent a letter asking the petitioners to contact the commission within 10 days or a decision would be issued.

As of the date of this decision, the Commission has not received any further communication since the petitioners January 14, 2011, letter in which they stated they would have the 2007 return filed by February 25, 2011.

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 \$15,900 for 2004, \$16,400 for 2005, \$16,900 for 2006, and \$17,500 for 2007.

The information gathered regarding the gross income of the petitioners shows that they exceeded these amounts and, therefore, were required to file 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 has the authority to determine the petitioners’ deficiencies of Idaho tax for taxable years 2004, 2005, 2006, and 2007. The petitioners were required to file Idaho tax returns and pay taxes on their income for taxable years 2004, 2005, 2006, and 2007.

Pursuant to Idaho Code section 63-3046(c), a 25 percent failure to file penalty has been applied to each year.

CONCLUSION

THEREFORE, the Notice of Deficiency Determination dated March 17, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that petitioners pay the following tax, penalty, and interest (computed to July 22, 2011):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$18,955	\$4,739	\$3,260	\$26,954
2006	808	202	195	1,205
2005	153	38	47	238
2004	907	227	331	<u>1,465</u>
			TOTAL DUE:	<u>\$29,862</u>

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

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 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.