

to the Commission's letter. Therefore, the Commission decided the matter based upon the information available.

Idaho Code section 63-3002 states that it is the intent of the Idaho Legislature to make the provisions of the Idaho income tax act identical to the provisions of the Internal Revenue Code relating to the measurement of taxable income, subject only to modifications contained in the Idaho law. It follows then that the intent of the Idaho Legislature is to follow a federal determination of taxable income. The [REDACTED] adjusted the taxpayers' [Redacted] return to include income the taxpayers omitted. Therefore, pursuant to Idaho Code, the Bureau adjusted the taxpayers' Idaho return to agree with the federal determination.

Idaho Code section 63-3031(b)(3) states:

If a joint return is made, the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

The taxpayers filed their 2006 Idaho income tax return as married filing joint. Therefore, both taxpayers are responsible for the tax, jointly and severally. At the [Redacted] level, [Redacted] apparently applied for innocent spouse status claiming that she had no knowledge of, or benefit from, the omitted income. The Internal Revenue Code has a provision to relieve innocent spouses from tax obligations; Idaho Code does not.

[Redacted] stated in her protest letter that the omitted income was that of [Redacted] and she had no knowledge of it. The taxpayers divorced some time in taxable year 2007, but that does not change the fact that the taxpayers filed a joint income tax return for taxable year 2006. The taxpayers' subsequent separation and divorce does not affect their taxable year 2006 filing. The Commission's ability to collect a deficiency in tax from either taxpayer remains the same.

Since the taxpayers did not provide anything to show the Bureau's adjustment was in error, the Commission must uphold the adjustment to the taxpayers' 2006 return. Furthermore, absent any statutory provision or court ruling, the Commission may collect the deficiency from either or both taxpayers.

Idaho Code section 63-3069 requires taxpayers to immediately send written notice to the Commission upon a final determination of a deficiency in federal tax or be subject to penalty. The taxpayers did not notify the Commission of the federal determination; therefore, the Bureau imposed the 5 percent penalty provided by that section. The Commission reviewed the penalty and found the addition of the penalty appropriate.

THEREFORE, the Notice of Deficiency Determination dated February 4, 2011, and directed to [Redacted] and [Redacted], is hereby APPROVED.

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>
2006	\$286	\$14	\$76	\$376

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

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.
