

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21565A
[Redacted],)	
)	
Petitioners.)	AMENDED DECISION
_____)	

This case began in 2008 after the Idaho State Tax Commission was notified by the IRS that an audit of the taxpayers' 2005 [Redacted] return had occurred. All adjustments made to the taxpayers' 2005 Idaho individual return were predicated on the same adjustments made by the [Redacted] to the taxpayers' [Redacted] return.

On September 23, 2008, the Income Tax Audit Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing additional income tax, penalty, and interest for taxable year 2005 in the total amount of \$2,671.

On November 24, 2008, a timely protest and petition for redetermination was filed by the taxpayers. The taxpayers did not request an informal hearing with the Commission. The Commission reviewed the file and issued its decision on May 14, 2010 affirming the NODD.

On August 16, 2010, the Commission received a Notice of Appeal from the Board of Tax Appeals and a hearing before the Board was subsequently held on December 7, 2010. The taxpayers submitted as exhibits at the hearing, numerous pages of documents to support the deductions disallowed by the [Redacted]. These documents, according to the taxpayers, were also provided to the [Redacted], along with their amended return for taxable year 2005, which was submitted in May 2010. The taxpayers asked the Board for additional time before it rendered its decision because their amended return was still being considered by the [Redacted].

On April 27, 2011, the Board issued an Order of Remand, sending the appeal back to the Commission. The Commission withdrew its decision on July 5, 2011, awaiting a final determination from the [Redacted] on the taxpayers' amended return.

A recent review of the taxpayers' [Redacted] transcript shows the amended return has been received, but no adjustments have been made to the original audit. The last entry on the [Redacted] transcript for taxable year 2005 was made on August 30, 2010. The taxpayers have not provided the Commission with a contrary result to the [Redacted] original redetermination. The taxpayers have the burden of proving the adjustments were incorrect, and they have not done so. The Commission's position is that the taxpayers must be granted relief at the federal level before relief can be granted at the state level; the Commission will not re-audit what the [Redacted] has already audited.

Idaho Code § 63-3002 states it is the intent of the Idaho legislature 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 immediately be sent to the State Tax Commission by the taxpayer. IDAPA 35.01.01 Income Tax Administrative Rule 890.03 states that immediate notification is 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 the taxpayers' [Redacted] income tax return to be reflected on the taxpayers' Idaho income tax return. The taxpayers were issued an NODD by the Commission pursuant to an [Redacted] redetermination of their income. The Commission received the [Redacted] audit from the [Redacted] showing that they had reduced or eliminated various itemized deductions claimed on their Schedule A. The Commission found that the

auditor correctly recomputed the taxpayers' tax liability pursuant to the [Redacted] redetermination.

Following the Idaho Code, the adjustments should be made to the taxpayers' Idaho income tax return. Because the taxpayers' original [Redacted] redetermination was not changed, the Commission must uphold the deficiency as asserted.

THEREFORE, the NODD dated September 23, 2008, and directed to [Redacted], is hereby APPROVED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$2,178	\$109	\$790	\$3,077

Interest is calculated through December 31, 2012.

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 _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.
