

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 22805  
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 )  
Petitioners. ) DECISION  
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\_\_\_\_\_ )

On January 20, 2010, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted](taxpayers) proposing income tax, penalty, and interest for taxable years 2003 through 2007 in the total amount of \$20,660.

On March 24, 2010, a timely protest and petition for redetermination was filed by [Redacted], CPA, but no power of attorney was on file. The taxpayers were informed that the protest had been accepted and that a power of attorney would need to be filed [Redacted] to represent them. A faxed copy of the power of attorney form was received on March 30, 2010, giving [Redacted] the authority to represent the taxpayers. The taxpayers have not requested a hearing. The Commission, having reviewed the file, hereby issues its decision based on the information in the file.

When the Bureau could not find any record of the taxpayers' 2003 through 2007 Idaho individual income tax returns, the taxpayers were sent a letter advising them of the missing returns and asking for an explanation. The taxpayers responded and stated that they were working on the returns and hoped to have the 2003 and 2004 returns completed by July 2009, with the remainder of the returns completed by the end of the year. The returns were not received from the taxpayers, and an NODD was issued.

Commission records show the taxpayer is owner [Redacted]. The business is an S-corporation with the taxpayer being the sole shareholder. The Bureau issued an NODD for the business for taxable years 2003 through 2007, which was not protested. The business NODD, in the total amount of \$170, proposed the minimum tax due pursuant to Idaho Code section 63-3025 in addition to penalty and interest. The S-corporation income was deducted from taxable income and flowed through to the taxpayers' individual NODD.

Because the taxpayers did not file their state income tax returns, the Bureau prepared provisional returns and issued an NODD. The NODD was based on information obtained [Redacted] and those records retained by the Commission. The taxpayers protested the Bureau's determination.

The protest letter [Redacted], dated March 24, 2010, stated that the taxpayer had suffered a debilitating health condition and was unable to perform the work necessary to timely file tax returns. The CPA stated that actual returns for 2003 and 2004 would be filed by April 26, 2010, and the remaining three years' returns would be filed by May 26, 2010. The 2003 and 2004 returns for [Redacted] and the individual returns [Redacted] were received September 21, 2011. The Bureau reviewed the returns but because the 2003 S-corporation federal return did not match what was originally filed [Redacted], the 2003 return was not accepted as filed. The taxpayers timely filed a 2003 S-corporation return [Redacted] and reported income, but the federal return filed with the Bureau reported a loss. Both the S Corporation and individual return for 2004 was accepted as filed and are subject to the normal review process. Taxable year 2004 will not be mentioned further in this decision.

For taxable year 2003, the NODD was based on the flow-through income from [Redacted] income and expenses reported [Redacted] along with the wage information

[Redacted] and dividend income reported. For taxable years 2005 through 2007, the NODD was based on total Idaho sales reported on [Redacted] timely self-filed monthly sales tax returns. A deduction for payroll expense was allowed in those years to offset the income. The [Redacted] wage information reporting wages [Redacted] for both taxpayers for taxable years 2003 and 2005 through 2007, wages [Redacted] for 2005 through 2007, and dividend income [Redacted] for 2003 and 2005 through 2007 and [Redacted] for 2006 and 2007 was included in the NODD.

The taxpayers have not provided the Commission with a contrary result to the determination of their income for taxable years 2003 and 2005 through 2007. The Commission has an obligation to treat taxpayers alike based on objective information submitted through proper channels and in proper form. The sales data and [Redacted] records are such information.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). It is the taxpayers' responsibility, and the burden rests upon them to disclose their receipts and claim their proper deductions. United States v. Ballard, 535 F.2d 400 (1976). The Commission recognizes that the taxpayers may have had business expenses to offset the income; yet, if the taxpayers are unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and the taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931).

Having presented no information in support of their argument, the taxpayers have failed to meet the burden of proving error on the part of the deficiency determination. Therefore, the Commission must uphold the deficiency. The penalty and interest additions were calculated in conformity with Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the NODD dated January 20, 2010, is hereby MODIFIED and, as MODIFIED, is AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$ 747	\$187	\$ 339	\$ 1,273
2005	3,569	892	1,194	5,655
2006	3,054	764	831	4,649
2007	3,897	974	787	<u>5,658</u>
			TOTAL DUE:	<u>\$17,235</u>

Interest is computed through April 19, 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.

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