



income and a head of household filing status. The Bureau reviewed the returns and found that they did not match the income information obtained [Redacted]. The Bureau explained the disparity to [Redacted] and asked him to provide it with a copy of their federal income tax return. [Redacted] obtained copies of their federal tax return transcripts [Redacted] and sent them to the Bureau. The Bureau reviewed the federal transcripts and found the taxpayers filed married filing joint income tax returns. The Bureau told [Redacted] he would need to amend his federal returns and change his filing status before the state would accept the returns he submitted to the Bureau. [Redacted] stated he would look into amending his federal returns, but after one last correspondence from the Bureau, [Redacted] asked that his case be transferred for administrative review.

The Bureau transferred the case, and the Tax Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. [Redacted] contacted the Tax Commission and said he would be willing to pay his share of the tax owed for 2007 and 2008. He stated that during their marriage, [Redacted] was in control of all their taxes because she told him she had the knowledge of the laws and rules for filing tax returns. [Redacted] stated he let [Redacted] take care of their taxes which turned out to be a mistake. He stated he will pay his half of the tax and believes the state should pursue [Redacted] for her half.

### **LAW AND ANALYSIS**

Idaho Code section 63-3002 states the intent of the Idaho legislature for the Idaho income tax act. It states that a tax shall be imposed on residents of Idaho measured by Idaho taxable income from all sources. It states that Idaho taxable income is to be identical to the taxable income reported [Redacted], subject to modification by the Idaho law. Idaho Code section 63-3031(c) states, if a married filing joint return is filed for federal income tax purposes,

a married filing joint return must be filed with Idaho. Therefore, since the taxpayers filed a married filing joint income tax return [Redacted], they are required to file a married filing joint return with Idaho. A married filing joint return makes the joint filers jointly and severally liable for the tax owed on the return.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The Bureau's determination of the taxpayers' Idaho taxable income mirrored the taxpayers' federal income tax returns with the exception of allowing the standard deduction for 2008 rather than itemized deductions. The information [Redacted] provided clearly shows the taxpayers claimed itemized deductions for 2008, and even with the state tax add back, as required by Idaho law, the itemized deductions are more advantageous for the taxpayers. Therefore, the Tax Commission modifies the 2008 return prepared by the Bureau to allow the taxpayers' itemized deductions.

Other than itemized deductions reported for taxable year 2008, there is no indication that amended returns were filed to change federal taxable income or [Redacted] filing status. [Redacted] failed to meet his burden of showing that his filing status was in error. Therefore, the Tax Commission must uphold the Bureau's determination as modified.

### **CONCLUSION**

The taxpayers were required to file Idaho individual income tax returns for taxable years 2007 and 2008. The taxpayers filed married filing joint income tax returns [Redacted]; therefore, they were required to file similar income tax returns with Idaho and they are entitled to their itemized deductions for taxable year 2008.

The Bureau added interest and penalty to the taxpayers' Idaho tax liability. The Tax Commission reviewed those additions and found them appropriate. See Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated August 13, 2010, and directed to [Redacted] is AFFIRMED AS MODIFIED by this decision.

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>
2007	\$ 503	\$126	\$ 100	\$ 729
2008	1,317	329	180	<u>1,826</u>
			TOTAL DUE	<u>\$2,555</u>

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.

\_\_\_\_\_  
Receipt No.