

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	DOCKET NO. 23643 & 24534
)	
[Redacted],)	DECISION
)	
Petitioners.)	
_____)	

[Redacted] (Petitioners) each protested the Notices of Deficiency Determination dated October 1, 2010, asserting income tax, penalty, and interest for taxable years 2006 through 2008 in the total amount of \$5,887 to each of the Petitioners. Petitioners disagreed with the Tax Discovery Bureau’s determination of their Idaho taxable income for each of the years and their filing status of married filing separate. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

As part of the review of the Tax Commission’s records, the Tax Discovery Bureau (Bureau) found that Petitioners stopped filing Idaho individual income tax returns after filing their 2005 income tax return. The Bureau reviewed other information available to the Tax Commission and found Petitioners likely had a requirement to file Idaho income tax returns for taxable years 2006 through 2008. The Bureau sent Petitioners letters asking about their requirement to file Idaho individual income tax returns. When Petitioners failed to respond, the Bureau obtained additional information [Redacted] and determined Petitioners were required to file Idaho income tax returns. The Bureau prepared married filing separate income tax returns for petitioners and sent each of them a Notice of Deficiency Determination.

Petitioners protested the Bureau’s determination stating they were working [Redacted] to get their delinquent returns filed. Petitioners gave the Bureau a timeline for filing their returns as

laid out [Redacted]. The Bureau allowed Petitioners additional time to submit their returns, and Petitioners submitted their 2006 return, which the Bureau accepted and cancelled from the Notices of Deficiency Determination. However, because Petitioners' 2006 return was the only income tax return submitted within the timeline provided, the Bureau referred the matter for administrative review.

In between the times the matter was submitted for administrative review and when the Tax Commission reviewed the matter, Petitioners submitted their 2007 return. The Tax Commission acknowledged receipt of Petitioners' 2007 return and provided Petitioners with the methods available for redetermining a protested Notice of Deficiency Determination. Petitioners contacted the Tax Commission and stated their 2008 return was at their accountant's being prepared. Petitioners anticipated having the return to the Tax Commission by February 15, 2012. The Tax Commission did not receive Petitioners' 2008 income tax return by February 15, 2012, but it was received on April 16, 2012.

The Tax Commission reviewed Petitioners' 2007 and 2008 income tax returns and found the returns generally represented Petitioners' taxable income better than the returns prepared by the Bureau. However, Petitioners' 2007 return appears to have omitted dividend income and capital gain income [Redacted] in the amounts of \$1,691 and \$2,257, respectively. Therefore, the Tax Commission added that income to Petitioners' 2007 taxable income and adjusted Petitioners' return accordingly. Petitioners' 2008 return appears to have included all the income the Tax Commission identified for Petitioners.

CONCLUSION

The Tax Commission reviewed Petitioners' returns and found them to be a better representation of Petitioners' Idaho taxable income, as adjusted, than the returns prepared by the Bureau. Therefore, the Tax Commission accepts Petitioners' returns, subject to the normal review process of the Tax Commission, in lieu of the returns prepared by the Bureau.

Petitioners' 2007 and 2008 income tax return resulted in a refund to Petitioners, even with the income adjustments to taxable year 2007. Since Petitioners submitted their returns within the tolled period of the statute of limitations (Idaho Code section 63-3072), Petitioners are entitled to their 2007 and 2008 refunds.

THEREFORE, the Notices of Deficiency Determination dated October 1, 2010, and directed to [Redacted] are AFFIRMED AS MODIFIED by this decision.

IT IS ORDERED that Petitioners receive the following refunds:

<u>YEAR</u>	<u>TAX REFUND</u>	<u>TOTAL</u>
2007	\$ (502)	\$ (502)
2008	(1,328)	<u>(1,328)</u>
	TOTAL REFUND	\$ (1,830)

An explanation of the petitioners' 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.
