

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23657
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated December 23, 2010. The Notice of Deficiency Determination stated the following:

The Idaho State Tax Commission has determined that you owe the following Individual Income Tax plus penalty and interest, according to Idaho Code Sections 63-3045 and 63-3046.

<u>PERIOD</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/2005	\$536	\$0	\$0	\$ 536
12/31/2006	\$540	\$0	\$0	540
			TOTAL DUE	<u>\$1,076</u>

REASON FOR DEFICIENCY: We have received your protest in response to the tax computation change. Your file will be forwarded to our legal department for review.

The total due listed above reflects the amount that your refund was reduced by and no additional payment is necessary.

The beginning of the Notice of Deficiency Determination indicates that the petitioners owed the tax specified plus unspecified additional penalty and interest. This is contradicted later in the Notice of Deficiency Determination stating that “no additional payment is necessary.”

The petitioners amended their 2005 and 2006 Idaho income tax returns to claim additional depreciation due to the disallowance of an IRC section 179 (election to expense certain depreciable business assets) deduction claimed for 2004. This deduction was disallowed by the [Redacted]. The refunds requested by the filing of the amended Idaho income tax returns

for taxable years 2005 and 2006 were disallowed by the Commission staff due to the amended returns having been filed after the time prescribed by Idaho Code § 63-3072 for the filing of claims for refunds.

The petitioners pursued this issue with the [Redacted]. If the petitioners could have obtained a final [Redacted] determination on this issue favoring their position, the time for the filing of an amended Idaho return would have been extended pursuant to Idaho Code § 63-3072(d). However, the petitioners have not provided the Commission with documentation indicating that they have prevailed. Accordingly, the Commission finds that the petitioners are not entitled to the refunds sought.

In determining the amount due from the petitioners or the amount due to the petitioners, the Commission, having reviewed the information in the file, finds that the petitioner did not at any time owe to the state of Idaho the additional tax or the related penalty and interest initially set out in the Notice of Deficiency Determination. The Commission further finds that the refunds sought by the petitioners would only be due to the petitioners if they prevailed on the issue with the [Redacted]. Therefore, the Commission finds that these claimed refunds are not owed to the petitioners.

Therefore, the Notice of Deficiency Determination dated December 23, 2010, (as clarified) is hereby APPROVED, AFFIRMED, and MADE FINAL.

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.
