

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 24000  
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 )  
Petitioners. ) DECISION  
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\_\_\_\_\_ )

On March 4, 2011, 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 2006 through 2008 in the total amount of \$9,509.

The taxpayers protested the determination and subsequently submitted an Idaho Individual income tax return for taxable year 2006. The return was accepted as filed and the NODD was cancelled for taxable year 2006. Taxable year 2006 will not be addressed further in this decision. No information was submitted for taxable years 2007 or 2008. The Commission, having reviewed the file, hereby issues its decision regarding taxable years 2007 and 2008.

The taxpayers failed to file their 2007 and 2008 Idaho individual income tax returns. Because Commission records showed the taxpayers met the state income tax filing requirements and had not filed their Idaho returns for taxable years 2007 and 2008, the Bureau attempted to contact them for clarification. The taxpayers did not respond.

The Bureau requested and received a transcript of the taxpayers' [Redacted] income records from the [Redacted]. The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

Idaho Code § 63-3045(1)(a) states:

**63-3045. Notice of redetermination or deficiency -- Interest.** (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

The Bureau first notified the taxpayers of the missing returns on November 4, 2009. When no response was received, a second letter was sent on January 20, 2010, and a subsequent letter on July 30, 2010. Throughout this timeframe, numerous due dates were given by the Bureau and each time the taxpayers would request yet another extension of time to prepare the returns. On December 14, 2010, another request for returns was sent by the Bureau but returns were not submitted.

On March 4, 2011, the Bureau prepared the missing Idaho returns on behalf of the taxpayers and sent them an NODD. On May 5, 2011, the taxpayers appealed the NODD. The taxpayers' appeal letter stated they expected to file the 2006 individual income tax return on May 6, 2011, and the 2007 and 2008 individual income tax returns during the week of May 9, 2011. The 2006 individual income tax return was received on May 9, 2011. When returns for taxable years 2007 and 2008 were not received, the file was transferred to the Legal/Tax Policy Division for administrative review.

On August 24, 2011, the taxpayers were sent a letter by the Tax Policy Specialist that outlined their appeal rights. The taxpayers responded, requesting an informal hearing which was held on November 17, 2011. The taxpayers did not provide any additional information for the

Commission's consideration at the hearing nor did they submit individual income tax returns for taxable years 2007 and 2008. They instead asked for another extension of time to complete returns. A firm date of December 30, 2011, was given for the completion of the 2007 and 2008 individual income tax returns. To date, neither individual income tax return has been received. The time has come for the Commission to decide this matter.

The information obtained from the [Redacted] along with Commission records show the taxpayers had income in excess of the filing requirement. The Idaho individual income tax returns the Bureau prepared on behalf of the taxpayers was based on income information gleaned from the taxpayers' [Redacted] income records and the records retained by the Commission. The taxpayers' withholding of \$558 and \$722 respectively for taxable years 2007 and 2008 was allowed to offset a portion of the Idaho income tax due. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

An NODD issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayers have provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable years 2007 and 2008.

THEREFORE, the NODD dated March 4, 2011, is hereby MODIFIED, and as MODIFIED, is AFFIRMED.

IT IS ORDERED and 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	\$1,286	\$322	\$263	\$1,871
2008	1,635	409	230	<u>2,274</u>
			TOTAL DUE	<u>\$4,145</u>

Interest is computed through May 15, 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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