

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24184
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated May 12, 2011, asserting income tax, penalty, and interest in the total amount of \$6,667 for taxable years 2005, 2006, and 2008. Petitioners disagreed with the Idaho taxable income the Tax Discovery Bureau determined for each of the years. Petitioners stated they needed time to research their tax records, implying they would file income tax returns for the missing years. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Tax Discovery Bureau (Bureau) received information that indicated Petitioners were required to file Idaho individual income tax returns. The Bureau searched the Tax Commission’s records and found that Petitioners did not file Idaho income tax returns for taxable years 2004 through 2009. The Bureau sent Petitioners a letter asking about their requirement to file Idaho income tax returns. Petitioners did not respond. The Bureau obtained additional information from the [Redacted] and determined Petitioners were required to file Idaho income tax returns for taxable years 2005, 2006, and 2008. The Bureau prepared income tax returns for Petitioners based upon the information available and sent them a Notice of Deficiency Determination.

Petitioners protested the Bureau’s determination stating they needed time to research their tax matters. The Bureau continued corresponding with Petitioners and Petitioners eventually submitted a 2008 Idaho income tax return. The Bureau acknowledged Petitioners’

2008 return and accepted it in lieu of the 2008 return it prepared. The Bureau allowed Petitioners additional time to provide their 2005 and 2006 returns but nothing was received. When it became apparent Petitioners were not going to provide the remaining two returns, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioners a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioners did not respond to the Tax Commission's initial letter nor to any of the follow-up letters the Tax Commission sent. Therefore, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3030 states that all resident individuals are required to file a return of income if they meet the filing threshold stated in Internal Revenue Code section 6012(a)(1). From the information available, Petitioners' income exceeded that amount each year. Furthermore, Petitioners filed [Redacted] income tax returns for each of the years.

Petitioners did not contest their requirement to file Idaho individual income tax returns. On the contrary, Petitioners seemed to acknowledge their requirement and implied they would submit income tax returns. In fact, Petitioners did provide one of the three income tax returns in question. But, as of today, Petitioners have yet to submit income tax returns for taxable years 2005 and 2006.

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). Petitioners only partially met this burden. Petitioners provided an income tax return for

taxable year 2008 that represented their Idaho taxable income better than the return prepared by the Bureau. The Bureau accepted Petitioners' 2008 return, and the Tax Commission agrees the Petitioners' return should be accepted, subject to the normal review process of the Tax Commission.

The Tax Commission reviewed the returns the Bureau prepared for Petitioners for taxable years 2005 and 2006, and found them to be a reasonable representation of Petitioners' Idaho taxable income based upon the information available.

CONCLUSION

Petitioners' reported income exceeded the filing requirement threshold. Petitioners were required to file Idaho individual income tax returns. Petitioners provided one of the missing returns but failed to provide all the returns in question. The Tax Commission accepts Petitioners' 2008 return; however, because Petitioners did not provide anything contrary to the 2005 and 2006 returns the Bureau prepared, the Tax Commission upholds the Bureau's determination for those taxable years.

The Bureau added interest and penalty to Petitioners' tax deficiency. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated May 12, 2011. and directed to [Redacted] is AFFIRMED as MODIFIED by this decision.

IT IS ORDERED that Petitioners pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$1,775	\$444	\$641	\$2,860
2006	1,837	459	548	<u>2,844</u>
			TOTAL DUE	<u>\$5,704</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of 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.