

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24222
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

PROCEDURAL AND FACTUAL BACKGROUND

This is an individual income tax case. In response to writ of mandate proceedings, [Redacted] filed their 2006 Idaho income tax returns. On this return, the petitioners did not pay all of the tax due and/or filed a late return. As a result, the Tax Discovery Bureau assessed a penalty. A Notice of Deficiency Determination (NODD) was issued on May 24, 2011, which included the penalty amount over and above what was on the filed returns.

The petitioners protested the NODD, and the case was transferred to the Legal/Tax Policy Division. A hearing rights letter was mailed on August 11, 2011. The Tax Commission received the petitioners' response on August 30, 2011, requesting that a decision be issued based upon the documents currently filed. No hearing was requested.

ANALYSIS

The petitioners' arguments are based on similar arguments made in Docket No. 19578. These arguments were adequately addressed in that docket. The petitioners are residents of Idaho. The petitioners filed tax returns showing an Idaho income tax liability. The issue in this matter is not the prior docket but whether the additional penalty asserted is correct because the penalty is based off the petitioners' own returns filed with the Tax Commission. Idaho Code § 63-3046 provides for a penalty to be asserted when a return is filed late and/or when full payment is not made timely. The penalty asserted is upheld.

CONCLUSION

It is well settled in Idaho that an NODD issued by the Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioners to show that the tax deficiency is erroneous. Id. Since the petitioners have failed to meet this burden, the Tax Commission finds that the amounts shown due on the NODD are true and correct.

Additional interest, which will continue to accrue pending payment of the tax liability pursuant to Idaho Code § 63-3045(6), and penalty to the petitioners' tax deficiency are asserted. The Tax Commission finds those additions appropriate as provided for in Idaho Code §§ 63-3045 and 63-3046.

THEREFORE, the NODD dated May 24, 2011, and directed to the petitioners is AFFIRMED.

IT IS ORDERED that the petitioners pay the following amount of tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$4,484	\$1,121	\$1,237	\$6,842
			TOTAL DUE	\$6,842

Interest is calculated through May 24, 2012.

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

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.