

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 24293
)
)
Petitioners.) DECISION
)
_____)

On March 21, 2011, the staff of the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] and [Redacted] (Taxpayers) proposing additional income tax, penalty, and interest for tax year 2007 in the total amount of \$3,091; being \$2,540 in tax, \$424 in interest, and a \$127 penalty.

TDB received information from [Redacted] that the Taxpayers omitted income on their 2007 [Redacted] income tax return. The [Redacted] determined the income should have been reported on the Taxpayers' [Redacted] income tax return and corrected the Taxpayers' [Redacted] return. TDB reviewed the changes [Redacted] made and determined the Taxpayers' Idaho income tax return should be corrected as well, adjusted the Taxpayers' 2007 Idaho income tax return, and sent them the NODD.

On May 23, 2011, the taxpayers sent a letter to TDB explaining that they believed the NODD was for taxes already paid, and therefore must be a clerical error. The Tax Commission considered this letter a timely appeal and petition for redetermination of the NODD. TDB acknowledged the appeal with an e-mail to the Taxpayers on May 25, 2011, attaching a breakdown of the payments made by the Taxpayers for taxable years 2007 through 2009 and showing the amounts due. TDB sent a letter to the Taxpayers on July 19, 2011, requesting that they either respond to the information provided in the e-mail or withdraw their protest.

On August 15, 2011, after no response from the Taxpayers, TDB forwarded the file to the Tax Commission's Legal/Tax Policy Section (Legal). Legal sent hearing rights letters to the Taxpayers on August 24, 2011, and again on March 6, 2012. The Taxpayers did not respond to the Tax Commission's hearing rights letters and have provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

DISCUSSION

Idaho Code § 63-3002 states the intent of the Idaho Legislature regarding the Idaho Income Tax Act. It states that the Idaho Income Tax Act is to be identical to the Internal Revenue Code as it relates to the measurement of taxable income, insomuch as the taxable income reported to Idaho is the same as that reported to [Redacted], subject to the modifications contained in the Idaho law. TDB received information from [Redacted] that showed the Taxpayers' [Redacted] taxable income had changed. The change was the result of omitted income. Therefore, TDB corrected the Taxpayers' Idaho income tax return to include the omitted income.

In their protest letter, the Taxpayers claimed that the NODD was in error, however, they did not offer any explanation or evidence of such an error. Since the Taxpayers did not respond to any other communication, the Tax Commission has no additional information on which to make its decision.

In Idaho, it is well established that a Tax Commission deficiency notice is presumed to be correct, and the taxpayer bears the burden of showing 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); Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). No information has been submitted by the Taxpayers in support of their protest.

CONCLUSION

The Taxpayers have failed to present any legal or factual information to dispute the basis of the NODD and, therefore, failed to meet their burden to show that the NODD is incorrect.

THEREFORE, the NODD dated March 21, 2011, directed to [Redacted] is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED 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	\$2,540	\$127	\$546	\$3,213
			CREDIT	(1,767)
			TOTAL DUE	<u>\$1,446</u>

Interest is calculated through August 17, 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.
