

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24449
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated November 3, 2010, issued by the Tax Discovery Bureau of the Idaho State Tax Commission for taxable year 2006 in the total amount of \$3,735. Petitioners stated the [Redacted] audit the Tax Commission was relying on was being contested at the [Redacted] level. The Tax Commission having reviewed the file hereby issues its decision.

BACKGROUND

The issue in this case is a [Redacted] audit that the Tax Commission followed wherein [Redacted] added additional income to Petitioners' [Redacted] taxable income for the forgiveness of debt. The Tax Discovery Bureau (Bureau) reviewed the [Redacted] adjustment and determined the debt forgiveness income should have been included on Petitioners' 2006 Idaho income tax return as well. The Bureau adjusted Petitioners' Idaho return and sent them a Notice of Deficiency Determination.

Petitioners protested the Bureau's determination stating they were still working with the [Redacted]. Petitioners stated the debt forgiveness was on a short sale of a house [Redacted] in 2004. Petitioners stated they knew they needed to file a [Redacted] return regarding this income but were unsure why it should be reported to Idaho when they did not live in Idaho in 2004.

The Bureau acknowledged Petitioners' protest and asked that Petitioners provide evidence that the matter was being contested at the [Redacted] level. Petitioners did not respond to the Bureau's request, so the matter was referred for administrative review.

The Tax Commission sent Petitioners a hearing rights letter that discussed the options available for redetermining the Bureau's determination. Petitioners did not respond to the Tax Commission's hearing rights letter and have made no further contact with the Tax Commission. Therefore, the Tax Commission hereby issues its decision based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3002 states it is the intent of the Idaho legislature to make the provisions of the Idaho income tax act identical to the provisions of the [Redacted] relating to the measurement of taxable income, subject only to modifications contained in the Idaho law. It follows then that the intent of the Idaho legislature is to follow a [Redacted] determination of taxable income. Further affirmation of the legislature's intent is found in Idaho Code section 63-3069 which requires taxpayers to immediately send written notice to the Tax Commission upon a final determination of a deficiency in [Redacted] tax or be subject to penalty.

The Bureau received information [Redacted] that a change had been made to Petitioners' 2006 [Redacted] income tax return. The Bureau reviewed the information and determined the changes made to Petitioners' [Redacted] return were applicable to Petitioners' 2006 Idaho individual income tax return.

Petitioners stated they were negotiating [Redacted]. However, Petitioners failed to provide the Tax Commission with anything to show ongoing negotiations or that the [Redacted] audit was under review. A recent review of Petitioners' [Redacted] transcript showed no pending claims but abundant collection activity.

Petitioners stated the debt forgiveness income was the result of a short sale of their house [Redacted] when they lived [Redacted] in 2004. Petitioners did not understand how they could owe tax to Idaho on something that occurred [Redacted] at a time when they did not live in Idaho. While it may be true that the short sale occurred on property located [Redacted], the debt forgiveness happened when Petitioners were living in Idaho.

From the information available, it is unknown when the sale of the property actually took place. Petitioners stated the sale was in 2004, but in the case of a short sale, where the lender agrees to a less than full payment, it would appear the sale was more likely in 2006 when the lender prepared and issued the 1099-C for the cancellation of the debt. And since Petitioners were living in Idaho at the time of the cancellation of the indebtedness, the income attributed to the debt forgiveness is reportable to Idaho. *See* Idaho Code section 63-3002.

CONCLUSION

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 did not meet their burden. Since the [Redacted] has not made any changes to its audit of Petitioners' 2006 [Redacted] income tax return, the Tax Commission finds the adjustment the Bureau made to Petitioners' 2006 Idaho income tax return was appropriate and in accordance with the Idaho Code. Therefore, the Tax Commission hereby upholds Bureau's determination.

The Bureau added the penalty of Idaho Code section 63-3069 to Petitioners' tax deficiency. The Tax Commission reviewed the addition of the penalty and found it appropriate.

The Bureau also added interest to Petitioners' tax. The Tax Commission reviewed that addition and found it appropriate and in accordance with Idaho Code section 63-3045.

THEREFORE, the Notice of Deficiency Determination dated November 3, 2010, and directed [Redacted] is AFFIRMED.

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>
2006	\$2,940	\$147	\$871	\$3,958

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.
