

allowed Petitioners additional time, and within a few weeks Petitioners submitted income tax returns for taxable years 2003, 2006, 2008, and 2009. The Bureau continued corresponding with Petitioners and about a month later Petitioners submitted an income tax return for taxable year 2004.

The Bureau reviewed the returns Petitioners submitted and determined Petitioners' returns were more accurate than the returns it prepared for those years. The Bureau sent Petitioners letters acknowledging receipt of the returns submitted and acceptance of the returns subject to the Tax Commission's normal review process. The Bureau also asked again that Petitioners submit their 2005 and 2007 returns and gave them a specific date to have them submitted. Petitioners failed to provide their 2005 and 2007 income tax returns, so 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, so the Tax Commission sent Petitioners a follow-up letter. Still Petitioners failed to respond. 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). Petitioners' income exceeded that amount each year, based upon reported wages, 1099 income, and schedule K-1 flow-through income.

Petitioners did not contest their requirement to file Idaho individual income tax returns. Petitioners disputed the amount of Idaho taxable income as determined by the Bureau.

Petitioners stated they would prepare income tax returns for all the years in question and submit them to the Bureau; however, only the returns for taxable years 2003, 2004, 2006, 2008, and 2009 were provided.

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 their burden. Petitioners submitted Idaho income tax returns for all the years except 2005 and 2007. Those returns were accepted by the Bureau and the deficiency determination cancelled. The Tax Commission agrees with the Bureau's decision to accept Petitioners' returns. However, because Petitioners did not provide returns for 2005 and 2007, the Tax Commission reviewed the returns the Bureau prepared for 2005 and 2007, and found them to be a reasonable representation of Petitioners' Idaho taxable income based upon the information available.

CONCLUSION

Petitioners received income in excess of the filing requirement threshold; Petitioners were required to file Idaho individual income tax returns. Petitioners provided returns for 2003, 2004, 2006, and 2008, but did not provide anything contrary to the 2005 and 2007 returns the Bureau prepared. Therefore, the Tax Commission upholds the Bureau's decision to cancel the Notice of Deficiency Determination for taxable years 2003, 2004, 2006, and 2008, and likewise upholds the Notice of Deficiency Determination for taxable years 2005 and 2007.

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 November 19, 2010, and directed to [Redacted] is AFFIRMED as MODIFIED.

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 | \$ 7,288 | \$1,822 | \$2,872 | \$11,982 |
| 2007 | 14,864 | 3,716 | 3,885 | <u>22,465</u> |
| | | | TOTAL DUE | <u>\$34,447</u> |

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 _____ 2013.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2013, 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.
