BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 24956
[Redacted],	)	
	)	
Petitioners.	)	DECISION
	)	

On March 6, 2012, the Income Tax Audit Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted]. and [Redacted] (taxpayers) proposing additional income tax, penalty, and interest for taxable years 2005 and 2006 in the total amount of $56,038.

On May 8, 2012, a timely protest and petition for redetermination was filed by the taxpayers. The taxpayers requested an informal hearing which was held on August 15, 2012. The taxpayers submitted some additional information from [Redacted] and stated that they intended to pursue the matter further with [Redacted], and if need be, in [Redacted]. The taxpayers were allowed additional time to resolve the matter, but they have not provided any additional documentation for consideration. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NODD.

The taxpayers were issued an NODD by the Commission pursuant to [Redacted] redetermination of their income. The Commission received the [Redacted] audit from [Redacted] showing that for taxable years 2005 and 2006 they had reduced or eliminated various itemized deductions claimed on Schedule A.

The protest letter sent by the taxpayers stated that while an agreement was reached between them and [Redacted] concerning the deficiency for taxable years 2005 and 2006, the additional tax would not be owed because of significant losses in taxable years 2007 and 2008 that would be

carried back to 2005 and 2006 on amended returns. The taxpayers further stated that while they did submit an amended [Redacted] return for taxable year 2007 showing a large loss, [Redacted] claimed it was not timely and therefore they did not allow the carryback to the previous years. However, the taxpayers believe their Idaho amended returns were timely filed and therefore no additional tax is due.

Background & Facts

The taxpayers failed to file an Idaho income tax return for taxable years 2005 and 2007. The Tax Discovery Bureau notified the taxpayers on March 25, 2009, of the missing returns. When the taxpayers did not respond, they prepared the returns on their behalf, and issued them an NODD. The taxpayers did not appeal the NODD and on July 23, 2009, the NODD became the Idaho returns for the taxpayers for taxable years 2005 and 2007. On May 12, 2010, the taxpayers submitted actual returns for both taxable years 2005 and 2007. The return for taxable year 2007 showed a negative adjusted gross income of $627,242, which was carried back to the 2005 return, significantly reducing the amount due shown on the return prepared by the Bureau. On March 6, 2012, the Income Tax Audit Bureau issued an NODD to the taxpayers for taxable years 2005 and 2006 as a result of the [REDACTED] redetermination of the taxpayers' income.

During the informal hearing the taxpayers provided additional information which consisted of a United States Tax Court Stipulation of Settled Issues signed by the taxpayers on September 10, 2010 and a final Decision of the Tax Court signed by the taxpayers on September 22, 2011. These documents state that the taxpayers agree to the amount of deficiencies in income tax asserted by [Redacted] for the taxable years 2005 and 2006. The Tax Court documents also acknowledge the 2005 and 2006 deficiencies were determined without

considering any net operating loss carryback claims from the taxpayers for their 2007 and 2008 income tax returns.

Law and Analysis

Idaho Code § 63-3002 states, in part, it is the intent of the Idaho legislature to make the Idaho income tax code identical to the internal revenue code in the way taxable income is determined, subject only to modifications contained in the Idaho law…

Such modifications applicable in the present case are found in Idaho Code § 63-3022-Adjustments to taxable income which states, in relevant part, the additions and subtractions set forth in this section, are to be applied to the extent allowed in computing Idaho taxable income:

> (b) Add the net operating loss deduction used in arriving at taxable income.
> (c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars ($100,000) to the two (2) immediately preceding taxable years.

Idaho Code § 63-3069 states that, upon a final determination of any deficiency or refund of federal taxes, written notice shall immediately be sent to the State Tax Commission by the taxpayer. IDAPA 35.01.01 Income Tax Administrative Rules 890.03 states that immediate notification is to be within 60 days of the final determination.

Conclusion

From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho legislature intended any changes made to the taxpayers' federal return to be reflected on the taxpayers' Idaho return, subject to modifications in Idaho law. Therefore, it is the Commission's position the changes made to the taxpayers' federal return must be made to the taxpayers' state return.

The taxpayers agreed in United States Tax Court to the adjustments to taxable income made by [Redacted] to their 2005 and 2006 tax returns. The NODD issued by the Income Tax Audit division coincides with these adjustments to income, and the Commission hereby modifies that NODD to show the effects of the 2005 amended return and subsequent NOL. The taxpayers did not submit an amended return for taxable year 2006 therefore no modifications to the NODD issued by the Audit division are made by the Commission to taxable year 2006.

THEREFORE, Notice of Deficiency Determination dated March 6, 2012, and directed to [Redacted] is hereby MODIFIED, and as so modified, APPROVED and MADE FINAL.

YEAR	TAX	PENALTY	INTEREST	TOTAL
2005	$60,652	$15,163	$22,888	$98,703
2006	6,488	1,622	2,041	10,151
			TOTAL DUE	$108,854

Interest is calculated through July 1, 2013.

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 _____ 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.

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