

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25036
[Redacted],)	
)	
Petitioners.)	DECISION
)	
_____)	

The Idaho State Tax Commission’s (Commission) Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioners) proposing additional income tax, penalty, and interest for taxable year 2008 in the total amount of \$3,611. The petitioners filed a timely petition for redetermination (petition). The TDB subsequently modified its NODD decreasing the proposed amount due from \$3,611 to \$552. The Commission, having reviewed the file, hereby issues its decision.

The petitioners had filed an Idaho resident income tax return for taxable years 2007 and 2009; but no Idaho income tax return was filed for taxable year 2008. In October 2011, the TDB sent the petitioners a letter requesting that the petitioners file an Idaho income tax return for taxable year 2008. Included within that letter was the information that the TDB believed supported its assertion that the petitioners had an Idaho filing requirement for taxable year 2008.

Since the petitioners did not file an Idaho income tax return for taxable year 2008 or provide the TDB with documentation to show that they were not required to file an Idaho income tax return for that year, on January 9, 2012, the TDB issued the NODD.

On March 7, 2012, the petitioners filed the petition in which they indicated that [Redacted] was working back east during 2008, and the other state where he was working took over \$3,000 for state taxes. The husband had subsequently moved to a mid-western state and used a tax service in that mid-western state to prepare the petitioners’ [Redacted] and state

returns. In 2009, [Redacted] went to that tax service's branch office located in Idaho to sign the returns for taxable year 2008. According to [Redacted], the only reason the petitioners owed [Redacted] was because "my husband filed his taxes before he received his W-2 form for unemployment in which they took taxes out."

On April 5, 2012, the TDB received from the petitioners an unsigned Idaho income tax return that had a January 30, 2009, date. The unsigned return appears to be the petitioners' copy of their Idaho income tax return as well as [Redacted] income tax return and other state return information prepared by the out-of-state tax service. All of the documents had "COPY ONLY DO NOT FILE" written across the documents.

On April 16, 2002, the TDB acknowledged receipt of the information and requested that the petitioners file an amended return as the returns provided did not reflect unemployment income of \$5,121 and interest income of \$25. Additionally, the TDB provided the taxpayer with the option withdrawing their petition and accepting a corrected calculation of the amount due as shown on a corrected Individual Income Tax Deficiency Form TC 68ind. The primary difference between the original NODD and the corrected Form TC 68ind was the allowance of \$2,213 of credit for taxes paid to another state which in turn impacts the amount of penalty and interest thereon.

In September 2012, the petitioners were informed of their appeal rights. The petitioners did not request an informal hearing. As of the date of this decision, the petitioners have not provided any information that would resolve this case in the petitioners' favor. It is the petitioners' burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State Dept. of Revenue, 106 Idaho 810, 814, (1984); Parsons v. Idaho State Tax Comm'n, 110 Idaho 572, 574 (Ct. App. 1986). Since the petitioners have not met this burden of proof showing that the

NODD, as subsequently modified, by the TDB is incorrect, the Commission upholds the TDB's determination for the taxable year.

THEREFORE, the NODD dated March 15, 2012, and directed to petitioners, is MODIFIED, AFFIRMED and MADE FINAL.

IT IS ORDERED, and THIS DOES ORDER, that the petitioners pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL DUE</u>
2008	\$397	99	67	\$563

Interest is calculated through January 31, 2013, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6)(c).

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.
