

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 25186
[Redacted],	)	
	)	
Petitioners.	)	DECISION
_____	)	

The Idaho State Tax Commission’s (Commission) Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination to [Redacted] (petitioners) proposing additional income tax and interest for taxable years 2006 through 2009, in the total amount of \$6,178. The petitioners filed a timely petition for redetermination (petition). The petitioners were informed of their appeal rights. The petitioners did not request an informal hearing, or provide any additional information subsequent to the issuance of the Commission’s hearing rights letter. The Commission, having reviewed the file, hereby issues its decision.

**I. IN GENERAL**

On February 4, 2011, and again on May 4, 2011, TDB sent the petitioners a letter inquiring about the petitioners’ failure to file an Idaho income tax return for taxable years 2006 through 2009. On June 22, 2011, since the petitioners had failed to respond to the TDB’s previous inquiry regarding taxable years 2006 through 2009, the TDB sent the petitioners a “Preliminary Individual Income Tax Deficiency” (PIITD) for taxable years 2006 through 2009, reflecting a total deficiency of \$6,131. Attached to the PIITD was an explanation that the

petitioners were required to file an Idaho income tax return for the taxable years due to the following receipt of income:

Name	Type	2009	2008	2007	2006
County of [Redacted]	W-2	\$16,056	\$13,120	\$12,776	\$11,510
[Redacted]	W-2	14,233			
[Redacted]	1099-MISC	13,982	16,008	14,986	
[Redacted]	1099-MISC		2,011	806	
[Redacted]	1099-MISC			13,104	676
[Redacted]	1099-INT				48
[Redacted]	1099-MISC				41,517
Total		<u>\$44,271</u>	<u>\$31,139</u>	<u>\$41,672</u>	<u>\$53,751</u>

On August 18, 2011, since the petitioners did not respond to PIITD, the TDB issued its Notice of Deficiency Determination (NODD) on substantially the same basis as was provided to the petitioners in the PIITD seeking an amount due of \$6,178. In its NODD, the TDB had allowed two personal exemptions and the standard deduction for married filing jointly. Additionally, the TDB had allowed the Idaho grocery credit and any Idaho withholdings that it was aware of. Interest was included in the NODD in accordance with section 63-3045, Idaho Code. The section 63-3046(c), Idaho Code failure to file an Idaho income tax return penalty was asserted in the NODD.

The petitioners filed a timely petition for redetermination in October 2011. In the petition, the petitioners stated:

The tax due amounts used in your determination do not include any personal deductions or business expenses that will be included on my returns. I still have been unable to determine the amount due for each tax period as of today.

I intend to file my tax returns as my response to the determination. I am requesting 90 days to complete the compilation of the information required for my returns.

The ninety-day time period came and went with no filing of the requested returns. The TDB made several more attempts to procure the Idaho income tax returns from the petitioners with limited success.

In April 2012, the petitioners filed their Idaho income tax return for taxable year 2008. The TDB issued a letter in April 2012 accepting the 2008 Idaho income tax return in lieu of the provisional amount stated in the NODD.

In June 2012, the petitioners filed their Idaho income tax return for taxable year 2007. The TDB issued a letter in June 2012 accepting the 2007 Idaho income tax return in lieu of the provisional amount stated in the NODD.

As of the date of this decision, the petitioners have not filed their Idaho income tax returns for taxable years 2006 and 2009.

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, the Commission upholds the TDB's determination relating to taxable years 2006 and 2009.

THEREFORE, the NODD dated August 18, 2011, and directed to the petitioners is hereby MODIFIED to remove taxable years 2007 and 2008, and AFFIRMED with respect to taxable years 2006 and 2009 by this decision.

IT IS ORDERED that the petitioners pay the following amount of tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$650	\$163	\$86	\$899
2006	2,146	537	681	<u>3,364</u>
			TOTAL DUE	<u>\$4,263</u>

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

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.  
  
\_\_\_\_\_