

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25204
[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, penalty, and interest for taxable years 2004, 2005, 2006, and 2009 in the total amount of \$9,512. 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

In June 2010, the TDB issued a letter to the petitioners notifying them that the Commission was not in receipt of their 2004 through 2006 Idaho individual income tax returns. That letter was returned to the Commission with the following notation “Moved left no address unable to forward return to sender.”

On August 5, 2010, the TDB sent the petitioners a letter addressed to a different address than the first letter. Attached to the August letter was a “Preliminary Individual Income Tax Deficiency” (PIITD) for taxable years 2004 through 2006, reflecting a total deficiency of \$8,959. Attached to the PIITD was an explanation that the petitioners met the Idaho filing requirement for these taxable years based upon information obtain by the Commission from another taxing agency. Included within the information obtained was W-2 wage information, as well as various

federal form 1099 information for such items as unemployment compensation, retirement, dividends, and proceeds from broker and barter exchanges. The August 5, 2010 letter was returned to the Commission with the following notation “return to sender not deliverable as addressed unable to forward.” The TDB retried the first address and resent the PIITD to the petitioners on August 17, 2010. As in the case of the first letter, the August 17, 2010 letter was returned to the Commission with the same notation as was on the first letter.

In September 2010, the TDB issued a letter to the petitioners notifying them that the Commission was not in receipt of their 2004 through 2006 Idaho individual income tax returns. The September letter was sent to an address not previously tried before, and to a completely different city than the previous letters. The September 2010 letter was followed up with a January 20, 2011, letter which included a PIITD seeking a total amount due for taxable years 2004 through 2006 of \$8,794. The January 20, 2011, letter was followed up with the issuance of a Notice of Deficiency Determination on April 21, 2011 (Notice). The Notice included taxable years 2004 through 2006 and the total amount due of \$8,854. The Notice was subsequently cancelled as it was determined that the Notice was sent to an address that was bad.

In November 2011, the TDB issued a letter to the petitioners, using an address not previously used, to notify the petitioners that the Commission was not in receipt of their 2004 through 2006, 2009, and 2010 Idaho individual income tax returns. The November 2011 letter was followed up by a December 7, 2011, letter. The December 2011 letter was followed up with the issuance of a Notice of Deficiency Determination (NODD) which only included taxable years 2004 through 2006, and 2009 seeking a total amount due of \$9,512. It is this NODD that the petitioners have filed a petition for redetermination over. The NODD was based upon much of the same information that was in the previous NODD that had been canceled. The

information relied upon in the NODD to arrive at the \$9,512 amount is reflected within Exhibit A, which can be found at the end of this decision. In its NODD, the TDB allowed two personal exemptions and the standard deduction for married filing jointly. The TDB did not allow the section 63-3024A, Idaho Code, Idaho grocery credit, but did allow any Idaho withholdings that it could confirm. 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.

In the petitioner's petition for redetermination the petitioners did not claim that they did not have an Idaho filing requirement for taxable years 2004, 2005, 2006, and 2009; instead, the petitioners provided the following explanation:

We are sorry for the delay in our taxes, we have done I believe 12 31 06 12 31 05 12 31 04.

We have done them thru a couple ways, hr and private we stored them in a storage which we lost all records. I have requested, copies and need a little more time. We had deductions of house tax and interest, medical and insurance. We lost our house in 09. We have struggled money wise and my husband had to retire due to medical, I also lost my job. I would like to request a couple months extension, We would then have everything up to date and would know what is what. We would promise to have all records in order and set to you so we can get this taken care of. So once more I would like to request an extension, we would like to have this taken care of also, we think of this everyday and it doesn't help medical strees. We have been married for [Redacted] years and have always done our taxes.

The TDB gave the petitioners until June 10, 2012, to provide the Commission with the requested returns. The June 10, 2012, date came and went without the petitioners having filed their 2004, 2005, 2006, and 2009, Idaho individual income tax returns; however, the petitioners indicated that they would not withdraw their petition for redetermination. The petitioners subsequently requested that they be given until July 16, 2012, in which to file the returns to allow them to have two checks to pay the accountant. They also indicated that they would not

ask for any more time. Having not received the requested returns by the July date, the petitioners' petition for redetermination was forwarded into the Commission's redetermination process in September 2012. The petitioners were subsequently informed of their appeal rights and in response, requested that they be given until April 13, 2013, to file the requested Idaho income tax returns. The April 13, 2012, date came and went without the petitioners having filed their 2004, 2005, 2006, and 2009 Idaho individual income tax returns.

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 2004, 2005, 2006, and 2009.

THEREFORE, the NODD dated February 8, 2012, and directed to the petitioners is hereby AFFIRMED with respect to taxable years 2004, 2005, 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	\$215	\$54	\$18	\$287
2006	1,970	493	883	3,346
2005	2,044	511	794	3,349
2004	1,806	452	589	<u>2,847</u>
			TOTAL DUE	<u>\$9,829</u>

Interest is calculated through November 15, 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.

EXHIBIT A

Description	Source	2004	2005	2006	2009
[Redacted]	W-2	\$27,986	\$28,651	\$28,393	\$31,515
[Redacted]	W-2	19,502	20,459	3,156	
[Redacted]	W-2	0	0	0	15,340
[Redacted]	1099-DIV	3	4	6	11
[Redacted]	1099-B	162	177	146	0
[Redacted]	1099-G			6,025	
[Redacted]	1099-R			9,029	
Subtotal		47,653	49,291	46,755	46,866
Standard deduction		-9,700	-10,000	-10,300	-11,400
Personal exemption		-6,200	-6,400	-6,600	-7,300
Federal taxable income as calculated by TDB		31,753	32,891	29,855	28,166
Adjustments in arriving at Idaho taxable income:					
Idaho taxable income per NODD		<u>\$31,753</u>	<u>\$32,891</u>	<u>\$29,855</u>	<u>\$28,166</u>
Idaho tax liability		\$1,960	\$2,034	\$1,796	\$1,629
Withholdings	W-2	0	0	0	-1,424
Permanent Building Fund tax		10	10	10	10
Grocery credit		0	0	0	0
Amount of tax due per NODD		<u>\$1,970</u>	<u>\$2,044</u>	<u>\$1,806</u>	<u>\$215</u>