

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 25244
[Redacted],	)	
	)	
Petitioner.	)	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 year 2010, in the total amount of \$1,416. 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**

The last return the petitioners had filed with the Commission was a resident Idaho individual income tax return for taxable year 2005. In July, August, and November 2011, the TDB sent the petitioners a letter inquiring about the petitioners’ failure to file an Idaho income tax return for taxable years 2006 through 2010. In December 2011, since the petitioners had failed to respond to the TDB’s previous inquiry regarding taxable years 2006 through 2010, the TDB sent the petitioners a “Preliminary Individual Income Tax Deficiency” (PIITD) for taxable year 2010, reflecting a preliminary total deficiency of \$1,404. How the TDB arrived at the \$1,404 preliminary deficiency amount for just taxable year 2010 is reflected in Table 1 at the end of this decision.

On February 24, 2012, since the petitioners did not respond to PIITD, the TDB issued its Notice of Deficiency Determination (NODD) using the same information as shown in Table 1 to calculate the proposed amount due for taxable year 2010. The NODD was updated to include additional interest, thus resulting in a total proposed amount due of \$1,416.

In its NODD, the TDB had

- Allowed married filing jointly.
- Allowed two personal exemptions.
- Allowed the standard deduction for 2010.
- Used the amount of income reported in taxable year 2005 plus a 5 percent growth factor per year to estimate the amount of income for taxable years 2006 through 2010 relating to the petitioners' [Redacted] activity, and [Redacted] activity. For taxable year 2005, the [Redacted] activity was reported on [Redacted]Schedule E, Supplement Income and Loss. The [Redacted] activity was reported on [Redacted]Schedule F, Profit and Loss from [Redacted].
- Recalculated and allowed as a deduction in taxable years 2006 through 2010 an Idaho net operating loss carryover that existed at the end of 2005.
- Allowed an Idaho capital gain deduction on the amount of gross proceeds reported on the petitioners' 1099-S.
- Allowed an Idaho investment tax credit carryover.
- Notified the petitioners that the right to receive any excess withholdings that may have been due to the petitioners for taxable years 2006 through 2009 had expired or were about to expire. The TDB did not allow for the offset of any potential

excess withholdings for taxable years 2006 through 2009 against the proposed tax liability for 2010.

- Notified the petitioners that any basis or expenses, associated with the income or estimated income, of the petitioners was not allowed due to lack of information.
- Did not allow the section 63-3024A, Idaho Code, grocery credit.
- 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.

On April 23, 2012, the Commission received a petition for redetermination filed on behalf of the petitioners, in which it was stated that: “[The petitioners] recently brought information for me to get to work on their delinquent tax returns. Now that we’ve made it thru 04/17, I’ll get to work on their situation. Please accept this letter as a request to protest the 63 Day Letter assessment an opportunity to submit proper tax returns.”

On April 27, 2012, the TDB acknowledged the petitioners’ protest, and followed up that acknowledgment with a couple more attempts to secure the requested Idaho income tax returns.

As of the date of this decision, the petitioners have not filed their Idaho income tax returns for taxable years 2006 and 2010, nor provided any additional information that would support a modification of the NODD.

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 year 2010.

THEREFORE, the NODD dated February 24, 2012, and directed to the petitioners is hereby AFFIRMED 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>
2010	\$1,096	\$274	\$100	\$1,470

Interest is calculated through September 30, 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.  
  
\_\_\_\_\_

[Redacted]

**Docket No. 25244**

**Table 1**

		<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>
Wages	W-2	\$64,141	\$62,229	\$60,767	\$54,667	\$26,616
Zions Bank	1099-INT	53				
First American Title	1099-S	154,000				
[Redacted]	1099- MISC					2,000
Northwest Farm Credit	1099- PATR					176
Agriculture Subsidiaries	1099-G		29	842	29	841
[Redacted] Rent Income	Estimate	8,441	8,039	7,656	7,291	6,944
Farming gross income	Estimate	43,362	41,297	39,330	37,457	35,673
Idaho Adjustments						
Idaho Capital Gain Deduction		-92,400				
Idaho NOL		-77,723	-111,594	-108,595	-99,444	-72,250
Subtotal		99,874	0	0	0	0
Standard Deduction		-7,300				
Personal Exemptions		-11,400				
Idaho Taxable Income		<u>\$81,174</u>				
Idaho Income Tax						
Idaho Income Tax		\$5,667				
Investment Tax Credit		-1,359				
Permanent Building Fund		10				
Grocery Credit		0				
Subtotal		4,318				
Withholdings		-3,222				
Tax Due		1,096				
Interest		274				
Penalty (25%)		34				
Total Due		<u>\$1,404</u>				