

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 25345 |
| [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 \$1,651. 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.

In June 2012, the TDB issued a letter to the petitioners notifying them that the Commission adjusted their Idaho resident individual income tax return for taxable year 2008. The proposed adjustments included picking up additional wages of \$21,911, interest income of \$21, and forgiveness of federal indebtedness of \$623. All of the aforementioned adjustments were based upon information obtained from the [Redacted].

The petitioner-husband (husband) called to inquire about the proposed adjustments. During that telephone conversation, the husband informed TDB that he did not agree with the [Redacted] adjustments and that he had been working outside of Idaho in 2008 and should not be taxed by Idaho on income received from work performed outside of Idaho. The TDB told the husband that if he was not a resident of Idaho in 2008, he should not have filed an Idaho resident income tax return where a nonresident or part-year resident Idaho return should have been filed.

Therefore, if he was not a resident in Idaho in 2008, the petitioners should amend their Idaho filing for 2008.

According to a subsequent telephone discussion between the TDB and the husband, the husband had contacted the [Redacted] and apparently the [Redacted] confirmed the adjustments; nonetheless, the husband does not agree that Idaho can tax the income since he worked in Montana for a week. During that telephone exchange, the TDB explained that since he was an Idaho resident for 2008, all of his income was subject to tax by Idaho.

On June 27, 2012, the husband filed a written protest in which he indicated that he would like to appeal the billing letter adjustments to tax period 2008, and that he wanted the opportunity to file correct taxes. It was his belief that the Idaho State Tax Commission does not have the correct filing, since all of the information the Commission used was from the [Redacted] government.

On July 11, 2012, the TDB issued the NODD seeking additional Idaho income tax, penalty, and interest totaling \$1,651. The TDB treated the June 27, 2012, letter as a timely filed protest. Interest was asserted in accordance with section 63-3045(6), Idaho Code. Penalty was asserted in accordance with section 63-3046(a), Idaho Code for negligence or disregard of rules but without intent to defraud.

Later in July 2012, the Commission received an Idaho Power of Attorney identifying an individual from [Redacted], Idaho, as the petitioners' representative. According to an e-mail sent by the petitioners' representative, the representative met with the petitioners with the following outcome:

I did talk to the [petitioners] and have prepared an amended return, but I informed [the petitioners] that my numbers match yours [the TDBs] and it would not be helpful for us to file the amendment. [The husband] is still in Oregon helping his mother and he told me he would contact you soon to try to set up a

payment plan and to see if you would be willing to abate any of the interest or penalties.

Subsequent to the representative's e-mail, the petitioners and the TDB traded phone calls in an attempt to discuss a payment plan. In October 2012, the TDB received written response from petitioners requesting appeal be forwarded to legal department for further consideration.

In late December 2012, the petitioners' representative was informed of the petitioners' appeal rights.

As of the date of this decision, the petitioners have not provided any information to show that the husband was not an Idaho resident or domiciliary of Idaho in 2008, nor any other information to show that the adjustments made to the petitioners' [Redacted] income tax return for 2008 were in error. 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 2008.

THEREFORE, the NODD dated July 11, 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 DUE</u> |
|-------------|------------|----------------|-----------------|------------------|
| 2008 | \$1,371 | \$69 | \$273 | \$1,713 |

Interest is calculated through January 31, 2014, and will continue to accrue at the rate set forth in section 63-3045, Idaho Code.

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.
