

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 25503
Petitioners.)
DECISION
_____)

BACKGROUND

On September 27, 2012, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (Petitioners) proposing income tax, penalty, and interest for taxable years 2002 through 2008, and 2010 in the total amount of \$24,718. On November 29, 2012, the Petitioners filed a timely protest. The Petitioners agreed with taxable years 2006 through 2008 and 2010. Those years were removed from the NODD. The Petitioners pointed out that they did not receive credit for taxes withheld during 2002 through 2005. Even though the Petitioners did not have copies of their W-2s for those years, the Bureau gave them credit for the state withholding based on the average amount withheld in the years available. The estimated taxes for years 2002, 2003, and 2009 would have been satisfied by the estimated withholding, so those years were removed from the NODD. The balance due remaining for income tax, penalty, and interest for taxable years 2004 and 2005 was \$8,441. The file was transferred to Tax Policy on June 1, 2013, for resolution.

ISSUES

1. Whether the Bureau’s calculation of the tax liability for taxable years 2004 and 2005 is correct.

DISCUSSION

This is a non-filer case. The Petitioners did not submit Idaho individual income tax returns for taxable years 2002 through 2010. The Bureau obtained information from [Redacted]. The Bureau requested and received a transcript of the taxpayer's [Redacted] income records from [Redacted]. [Redacted].

On February 13, 2013, the Commission sent the taxpayer a letter that explained the methods available for redetermining an NODD. The Petitioners did not respond. A second letter was sent on March 19, 2013. No response was made by the Petitioners. No Idaho income tax returns have been filed for years 2004 and 2005. Part of the Petitioners' income was from the husband's self-employed [Redacted] business. Since the Petitioner did not report any expenses, the tax liability was calculated based on Form 1099 gross income. Self-employed taxpayers are allowed to deduct one-half of the self-employment tax that is paid on net self-employment income on their [Redacted] returns. We have allowed a reduction to the 2005 income of \$1,171 and \$4,916 of the 2004 income. Those amounts are equal to one-half of the self-employment tax calculated on the gross Form 1099 income.

CONCLUSION

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show the deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The Petitioners failed to file their 2004 and 2005 Idaho individual income tax returns. Having presented no information in support of their position, the Petitioners have failed to meet their burden of proving error on the part of the deficiency determination. Absent information to

the contrary, the Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for those years, modified only by the self-employment tax deduction discussed above.

THEREFORE, the Notice of Deficiency Determination dated September 27, 2012, corrected on November 29, 2012, and directed to [Redacted] is hereby MODIFIED AND AFFIRMED.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/05	\$ 429	107	165	701
12/31/04	4,170	1,043	1,869	<u>7,082</u>
			BALANCE DUE	<u>\$ 7,783</u>

Interest is calculated through October 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.
