

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 25056  
Petitioner. )  
DECISION  
\_\_\_\_\_ )

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated June 15, 2012, for taxable year 2009 asserting additional income tax, penalty, and interest in the total amount of \$2,169. Petitioner did not disagree with the audit adjustment. Petitioner stated he had no income, so he wanted another look to see what could be done. The Tax Commission, having reviewed the file, hereby issues its decision.

**BACKGROUND**

The Income Tax Audit Bureau (Bureau) received information from the [Redacted] that a change was made to Petitioner’s 2009 [Redacted] income tax return. The Bureau reviewed the changes the [Redacted] made and determined Petitioner’s Idaho income tax return should be adjusted as well. The Bureau adjusted Petitioner’s Idaho income tax return and sent him a Notice of Deficiency Determination. Petitioner responded to the Bureau’s determination, stating he is disabled and has no income. The Bureau acknowledged Petitioner’s response as a protest and referred the matter for administrative review.

Petitioner contacted the Tax Commission to explain his situation and discuss his options. Petitioner stated he had no income, but he was working with social security to get a disability determination. The Tax Commission agreed to postpone further action on Petitioner’s case to allow him to concentrate on the social security disability determination. Petitioner agreed to contact the Tax Commission after his disability was determined. A year later, the Tax

Commission sent Petitioner a letter asking for an update and how he wanted to proceed with the audit deficiency. A friend of Petitioner contacted the Tax Commission on his behalf and stated that she paid all Petitioner's back tax liabilities. The Tax Commission requested a copy of the payment, but Petitioner failed to provide one. Petitioner made no further contact. The Tax Commission obtained updated information from the [Redacted] and decided the matter based upon the information available.

### **LAW AND ANALYSIS**

Idaho Code section 63-3002 states it is the intent of the Idaho legislature to make the provisions of the Idaho income tax act identical to the provisions of the Internal Revenue Code relating to the measurement of taxable income, subject only to modifications contained in the Idaho law. It follows, then, that the intent of the Idaho legislature is to follow a [Redacted] determination of taxable income. Further affirmation of the legislature's intent is found in Idaho Code section 63-3069, which requires taxpayers to immediately send written notice to the Tax Commission upon a final determination of a deficiency in [Redacted]tax or be subject to penalty.

The Bureau received information from the [Redacted] that a change had been made to Petitioner's 2009 [Redacted] income tax return. The Bureau reviewed the information and determined the changes made to Petitioner's [Redacted] return were applicable to Petitioner's 2009 Idaho individual income tax return. Petitioner provided nothing contrary to the adjustments made by the Bureau.

### **CONCLUSION**

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App.

1986). Petitioner did not contest the accuracy of the Bureau's determination. Petitioner argued his ability to pay the deficiency.

The ability to pay a tax deficiency is not a factual or legal argument for contesting a Notice of Deficiency Determination. The ability to pay is a determination for the Tax Commission's collection department, not an interpretation or application of a statute or rule.

The adjustment the Bureau made to Petitioner's 2009 Idaho income tax return mirrored the changes made to Petitioner's [Redacted] taxable income. The Tax Commission reviewed the adjustment and found it appropriate and in accordance with the Idaho Code. Therefore, the Tax Commission hereby upholds the Bureau's determination.

The Bureau added the penalty of Idaho Code section 63-3069 to Petitioner's tax deficiency. The Tax Commission reviewed the addition of the penalty and found it appropriate.

The Bureau also added interest to Petitioner's tax. The Tax Commission reviewed that addition and found it appropriate and in accordance with Idaho Code section 63-3045.

THEREFORE, the Notice of Deficiency Determination dated June 15, 2012, and directed to [Redacted] is AFFIRMED.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$1,883	\$94	\$342	\$2,319

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the Petitioner's right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2014, 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.