

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 25270
[Redacted],)
)
)
) Petitioners.) DECISION
)
_____)

[Redacted] and [Redacted] (Petitioners) protested the Notice of Deficiency Determination dated April 27, 2012, for taxable years 2008 and 2009, rejecting Petitioners’ amended returns for a [Redacted] audit and additional Idaho subtractions. Petitioners disagreed that the [Redacted] denied their amended returns, but simply had not processed their 2008 and 2009 amended [Redacted] income tax returns. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Income Tax Audit Bureau (Bureau) received information from the [Redacted] that Petitioners’ 2008 and 2009 [Redacted] income tax returns were audited and adjusted. The Bureau reviewed the changes the [Redacted] made and determined Petitioners’ 2008 and 2009 Idaho income tax returns should be adjusted as well. The Bureau adjusted Petitioners’ Idaho income tax returns and sent them a Notice of Deficiency Determination dated May 5, 2011. The following day the Tax Commission received amended returns from Petitioners for taxable years 2008 and 2009. Petitioners’ amended returns were received by the Tax Commission’s Revenue Operations Division, rather than the Bureau.

When Petitioners’ 2008 and 2009 amended returns processed, the returns were flagged because of the audit by the Bureau. Petitioners’ amended returns were referred to the Bureau and the Bureau reviewed them to validate the amendments made. The Bureau rejected

Petitioners' returns on the basis that the amended returns revised the adjustments previously made by the [Redacted] and the Bureau. The Bureau stated there was no evidence the [Redacted] made any changes to its prior audit. The Bureau sent Petitioners a second Notice of Deficiency Determination rejecting Petitioners' amended 2008 and 2009 Idaho income tax returns.

Petitioners protested the Bureau's second Notice of Deficiency Determination. Petitioners stated they discussed the matter of the May 5, 2011, Notice of Deficiency Determination with the Tax Commission on several occasions, stating that amended returns had been filed with the [Redacted]. Petitioners stated their contact with the [Redacted] told them their returns had not finished processing. Petitioners stated they would try to verify this and send the verification to the Tax Commission.

The Bureau allowed Petitioners additional time to provide the verification, but nothing came. The Bureau acknowledged Petitioners' protest and referred the matter for administrative review.

The Tax Commission sent Petitioners a letter stating that their case had been transferred for administrative review and that the matter would be put on hold pending a final [Redacted] determination, provided they could show the matter was still being considered by the [Redacted]. Petitioners did not respond to the Tax Commission's letter; nevertheless, the Tax Commission put the matter on hold for a few months. After a few months, the Tax Commission requested an update from the [Redacted] and the information obtained showed no changes made to the [Redacted] audit. The Tax Commission sent Petitioners another letter stating the information it received from the [Redacted] and asked Petitioners to provide evidence that the [Redacted] was

reconsidering its audit adjustments. Petitioners did not respond. Therefore, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3002 states the intent of the Idaho Legislature regarding the Idaho Income Tax Act. It states that the Idaho Act is to be identical to the Internal Revenue Code as it relates to the measurement of taxable income, in so much as that the taxable income reported to Idaho is the same as the that reported to the [Redacted], subject to the modifications contained in the Idaho law. Therefore, any changes to Petitioners' [Redacted] taxable income should also be made to Petitioners' Idaho taxable income.

In the May 5, 2011, Notice of Deficiency Determination, the Bureau adjusted Petitioners' 2008 and 2009 Idaho individual income tax returns to correspond with the audit adjustments made by the [Redacted]. On May 6, 2011, the Tax Commission's Revenue Operations Division received Petitioners' 2008 and 2009 amended Idaho income tax returns. Petitioners' amended income tax returns amended their original Idaho income tax returns for the adjustments made to their [Redacted] income tax returns, as well as making additional adjustments not made by the [Redacted]. The additional adjustments Petitioners made were to their office in the home expense for taxable years 2008 and 2009, no subtraction for self-employment taxes for taxable years 2008 and 2009, and an additional Idaho subtraction for taxable year 2008.

Generally, when the Tax Commission receives information from the [Redacted] that an audit adjustment was made to a taxpayer's [Redacted] income tax return, the Tax Commission follows the [Redacted] audit and does not deviate from the audit adjustments made, unless there is a modification in the Idaho Code. If a taxpayer protests the corresponding Idaho adjustments, the Tax Commission requires verification the [Redacted] changed its audit adjustments. In this

case, Petitioners did not protest the [Redacted] audit changes made to their Idaho income tax returns. In this case, Petitioners amended their Idaho returns for additional changes the [Redacted] overlooked and made additional changes that only affected Petitioners' 2008 Idaho return. The Tax Commission reviewed the additional amendments to Petitioners' 2008 and 2009 Idaho income tax returns and found them appropriate with the exception of the additional Idaho subtraction.

Petitioners claimed an additional Idaho subtraction in the amount of \$2,689. Petitioners did not identify the subtraction nor did they provide an explanation for the subtraction. If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Therefore, the Tax Commission denied the amendment for the Idaho subtraction on Petitioners' amended 2008 Idaho income tax return.

CONCLUSION

Petitioners' 2008 and 2009 [Redacted] income tax returns were audited and adjusted by the [Redacted]. Petitioners subsequently filed amended Idaho income tax returns for taxable years 2008 and 2009, amending their Idaho returns for the [Redacted] audit adjustments and other adjustments not made by the [Redacted]. The Tax Commission reviewed Petitioners' additional adjustments and found Petitioners included adjustments the [Redacted] should have made, because those adjustments are predicated on the adjustments made by the [Redacted]. Therefore, the Tax Commission accepts those additional amendments to Petitioners' Idaho returns. However, for taxable year 2008, Petitioners included an amendment for an additional Idaho subtraction. Petitioners did not identify the subtraction; therefore, the Tax Commission finds this amendment should not be allowed.

THEREFORE, the Notice of Deficiency Determination dated April 27, 2012, and directed to [Redacted] and [Redacted] is hereby AFFIRMED as MODIFIED by this decision.

IT IS ORDERED that Petitioners receive the following refund of tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$(92)	\$(8)	\$(100)
2009	(42)	(4)	(46)
		TOTAL REFUND	<u>\$(146)</u>

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

DATED this _____ day of _____ 2014.

IDAHO STATE TAX COMMISSION

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.
