

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 25435
[Redacted],)
)
)
) Petitioners.) DECISION
)
_____)

BACKGROUND

On August 14, 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 2006 through 2010, in the total amount of \$189,500. On October 19, 2012, the Petitioners filed a timely protest. The file was transferred to Tax Policy on December 18, 2012, for resolution. The Commission sent letters explaining the redetermination options on March 5, 2013 and July 24, 2013. Phone messages were left with the Petitioners, requesting a call back, on October 4, 2013 and on October 28, 2013. The Petitioners called in January 2014, and said they were working with an accountant and would have returns soon. Messages were left with the Petitioners in March, June, and October, 2014. The Commission now makes this decision with the information available in the file.

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 sent the Petitioners a letter, dated November 18, 2011, notifying them of the missing returns. The Bureau obtained information from the [Redacted] that indicated significant income during the years 2006 through 2010, was received by [Redacted] a wholly owned Subchapter S corporation. The Bureau requested, and received, a

transcript of the taxpayer's [Redacted] income records from [Redacted]. [Redacted]. The Petitioners requested an extension of time through November 19, 2012. No returns were received by that date. No Idaho income tax returns have been filed for the missing tax years since.

LAW AND ANALYSIS

Idaho Code section 63-3030 requires that every Idaho resident who is required to file a [Redacted] income tax return must also file an Idaho income tax return. Section 6012(a)(1) of the Internal Revenue Code requires individuals to file an income tax return if their gross income is equal to or exceeds the amount set forth by the code. Those amounts vary by year because of the indexed increases in the personal exemptions and standard deductions. All the years in this audit were several times the minimum requirements.

The information gathered regarding the gross income of the Petitioners shows that they exceeded these amounts and, therefore, were required to file tax returns pursuant to Idaho Code section 63-3030.

The Commission is authorized to determine a deficiency of Idaho tax. Idaho Code section 63-3045(1)(a) states:

If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer.

Idaho Code section 63-3068(a) establishes a statute of limitations requiring a notice of deficiency to be "issued within three (3) years from either the due date of the return, without regard to extensions, or from the date the return was filed, whichever is later." However, there is no statute of limitations when no return was filed. Idaho Code section 63-3068(d) states:

In the case of a failure to file a return, for any reason, a notice of deficiency may be issued, the tax imposed in this chapter may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

The Commission has the authority to determine deficiencies of Idaho tax for the Petitioners for taxable years 2006 through 2010.

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 have not filed their 2006 through 2010 Idaho individual income tax returns. The Commission contacted the Petitioners numerous times and requested the returns be filed. Having presented no information in support of their position, the Petitioners have not met 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.

THEREFORE, the Notice of Deficiency Determination dated August 14, 2012, and directed to [Redacted] and [Redacted] is hereby AFFIRMED.

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|------------------|
| 12/31/06 | \$28,337 | \$ 7,084 | \$10,381 | \$ 45,802 |
| 12/31/07 | 56,127 | 14,032 | 16,627 | 86,786 |
| 12/31/08 | 10,617 | 2,654 | 2,458 | 15,729 |
| 12/31/09 | 28,220 | 7,055 | 5,138 | 40,413 |
| 12/31/10 | 7,499 | 1,875 | 1,013 | <u>10,387</u> |
| | | | TOTAL DUE | <u>\$199,117</u> |

Interest is calculated through November 28, 2014, 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 _____ 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.
