

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 25515
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated November 29, 2012, for taxable year 2009 asserting additional income tax, penalty, and interest in the total amount of \$760. Petitioner disagreed that he could not claim the dependent exemption deductions for his children. 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 protested the Bureau’s determination stating he is allowed to claim his children as dependents per his divorce decree and because he pays for the insurance on his children. Petitioner provided a copy of his divorce decree in support of his position. The Bureau acknowledged Petitioner’s protest and referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioner a letter stating the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner responded and asked what additional documents needed to be provided prior to a hearing. The

Tax Commission told Petitioner that since his case was based upon a [Redacted] audit, he would need to provide documents showing the [Redacted] was reconsidering the matter or that the [Redacted] had made a change to their audit. The Tax Commission stated it would put the matter on hold pending a final [Redacted] determination if Petitioner could show the matter was still being considered by the [Redacted].

Petitioner did not respond to the Tax Commission's letter; nevertheless, the Tax Commission did review an updated [Redacted] transcript of Petitioner's 2009 [Redacted] return and decided to put the matter on hold for a few months. Several months later the Tax Commission requested additional information from the [Redacted] and found no changes were made to the [Redacted] audit report the Bureau received and that the last action taken by the [Redacted] was the receipt of a small payment and the receipt of an installment payment agreement. Seeing that Petitioner was not contesting the [Redacted] adjustment, the Tax Commission 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 meet his burden. From the information available as of May 9, 2014, the [Redacted] has not change its audit adjustments to Petitioner's 2009 [Redacted] income tax return. The adjustments 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 adjustments and found them 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 November 29, 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	\$650	\$33	\$111	\$794

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

\_\_\_\_\_  
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.  
  
\_\_\_\_\_