

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

|                                 |   |                  |
|---------------------------------|---|------------------|
| In the Matter of the Protest of | ) |                  |
|                                 | ) | DOCKET NO. 25548 |
| [Redacted],                     | ) |                  |
|                                 | ) |                  |
| Petitioners.                    | ) | DECISION         |
| _____                           | ) |                  |

[Redacted] and [Redacted] (Petitioners) protested the Notice of Deficiency Determination dated February 12, 2013, for taxable years 2008 and 2010, asserting additional income tax, penalty, and interest in the total amount of \$2,066. Petitioners disagreed with the [Redacted] audit disallowing the dependent exemption deductions for [Redacted] and [Redacted]. 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 Petitioners' 2008 and 2010 [Redacted] income tax returns. The Bureau reviewed the changes the [Redacted] made and determined Petitioners' 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. Petitioners protested the Bureau's determination, stating [Redacted] is allowed to claim [Redacted] and [Redacted] as dependents per his divorce decree, if certain conditions were met. Petitioners stated those conditions were met in 2008 and 2010, and they provided a copy of [Redacted] divorce decree to support their position. Petitioners also stated the same information was provided to the [Redacted] in protest of the [Redacted] audit. The Bureau acknowledged Petitioners' protest and referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioners a letter stating the methods available for redetermining a protested Notice of Deficiency Determination. The letter also stated that since the Bureau's adjustments to Petitioners' Idaho income tax returns were based on an [Redacted] audit, Petitioners would need to show that the [Redacted] reconsidered its position. Petitioners did not respond. Nevertheless, the Tax Commission, knowing these matters take time to be resolved at the [Redacted] level, put the matter on hold.

Eighteen 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. In fact, Petitioners' [Redacted] transcript showed only collection action taken by the [Redacted]. Seeing that the [Redacted] was not reconsidering the audit of Petitioners' 2008 and 2010 [Redacted] income tax returns, 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 Petitioners' 2008 and 2010 [Redacted] income tax returns. The Bureau reviewed the information

and determined the changes made to Petitioners' [Redacted] returns were applicable to Petitioners' 2008 and 2010 Idaho individual income tax returns.

Petitioners provided some information with their protest and the Tax Commission's review of that information only re-enforced the adjustments made by the [Redacted] disallowing the dependent exemption deductions. *See* Internal Revenue Code section 152.

### **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). Petitioners did not meet their burden. From the information available as of September 3, 2014, the [Redacted] has not changed its audit adjustments to Petitioners' 2008 and 2010 [Redacted] income tax returns. The adjustments the Bureau made to Petitioners' 2008 and 2010 Idaho income tax returns mirrored the changes made to Petitioners' [Redacted] taxable income for those years. 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 Petitioners' tax deficiency. The Tax Commission reviewed the addition of the penalty and found it appropriate.

The Bureau also added interest to Petitioners' 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 February 12, 2013, and directed to [Redacted]and [Redacted] is AFFIRMED.

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

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u>   |
|-------------|------------|----------------|-----------------|----------------|
| 2008        | \$ 547     | \$27           | \$123           | \$ 697         |
| 2010        | 1,238      | 62             | 172             | <u>1,472</u>   |
|             |            |                | TOTAL DUE       | <u>\$2,169</u> |

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.  
  
\_\_\_\_\_