

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 26200
[Redacted],	)	
	)	
Petitioners.	)	DECISION
_____	)	

On December 23, 2013, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (now deceased) and [Redacted] (petitioners), proposing additional tax, penalty, and interest in the amount of \$21,843 for taxable year 2010.

The petitioners filed a timely protest and petition for redetermination. They did not request a hearing and have provided no additional information for the Commission's consideration. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The petitioners submitted their 2010 Idaho income tax return on April 13, 2011. The return was referred to the Bureau for review, as the petitioners had previously been contacted by the Bureau concerning non-filed Idaho income tax returns for previous years. The Bureau reviewed the return, along with the income information available. Based on the information available, it appeared not all taxable income was shown on the petitioners' return for tax year 2010. The Bureau sent the petitioners a letter identifying the sources of the omitted income and giving them an opportunity to submit an amended return. The petitioners did not submit an amended return or provide adequate documentation to demonstrate that the identified income should not be included on their Idaho individual income tax return for taxable year 2010. Therefore, the Bureau issued an NODD to include the omitted income. The petitioners protested

the deficiency determination and the file was transferred to the Legal/Tax Policy Division for administrative review and continuation of the appeals process.

The petitioners' letter of protest, submitted by Mrs. [Redacted], states:

I am writing this letter to protest one of the amounts on the Idaho Tax Commission determination of income. The determination of \$169,402.00 for [Redacted] is a corporation that belongs to [Redacted] of [Redacted]. [Redacted] managed the account for him and did not have personal access to the funds. If you need any more information you can reach me at the address above.

The adjustment made by the Bureau to include income from [Redacted] was based on documentation that indicated [Redacted] was much more involved in [Redacted] than simply managing the books. Based on the information obtained from the Idaho Secretary of State, bank statements and conversations with the petitioners, the Bureau determined [Redacted] was the true owner of [Redacted] until late 2013. The Idaho Secretary of State showed [Redacted] as the registered agent, president, secretary and director of [Redacted] until October 29, 2013. The signature cards at [Redacted] where [Redacted] maintained a business account, showed [Redacted] as the signer and owner of [Redacted] until November 7, 2013, when two other individuals were added.

The income amount shown on the NODD for [Redacted] was an estimate of gross sales, which was based on the total deposits for 2010, as shown on the bank statements for [Redacted]. The Commission recognizes that the petitioners may have had business expenses to offset the income; yet, if the petitioners are unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and the petitioners must bear their misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931).

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)... It

is the petitioner's responsibility, and the burden rests upon them to disclose their receipts and claim their proper deductions. United States v. Ballard, 535 F.2d 400 (1976). Having presented no information in support of their argument, the petitioners have failed to meet their burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The petitioner has provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable year 2010. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated December 23, 2013, is APPROVED and MADE FINAL.

IT IS ORDERED and this DOES ORDER, that the petitioners pay the following amount of tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2010	\$18,113	\$1,811	\$2,686	\$22,610

Interest is calculated through March 31, 2015.

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 \_\_\_\_\_ 2015.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2015, 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.

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