

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 1-118-752-768  
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 )  
Petitioners. ) DECISION  
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\_\_\_\_\_ )

On August 19, 2014, 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 2009 through 2011 in the total amount of \$8,120.

[Redacted] filed a timely protest. She did not request an informal conference and has not provided any additional information for consideration. [Redacted] requested a telephone conference but did not provide dates and times in which he was available. An attempt was made to contact [Redacted] in order to schedule the conference but he did not respond. He has also not provided any additional documentation for consideration. Therefore, the Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

A letter was sent to petitioners advising them of their missing returns and asking them for an explanation since the Bureau could not find any record of petitioners' 2009 through 2011 Idaho individual income tax returns. Petitioners did not respond. The Bureau requested, and received, a transcript of petitioners' [Redacted] income tax records from the [Redacted]. The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

Because petitioners did not file state income tax returns, the Bureau prepared provisional returns and issued an NODD. On October 8, 2014, the Bureau received a letter of protest from [Redacted] along with additional information. [Redacted] stated she did not believe she needed to file Idaho State income tax returns because she worked in [Redacted] and was not in her Idaho home seven days a week. As for [Redacted] filing requirement, the appeal letter stated the relationship was on and off again and that Mr. [Redacted] lived or worked down in [Redacted] and was not always in the home. The Bureau reviewed the additional information provided by the petitioners and sent them both a letter acknowledging the protest and restating their determination that Idaho income tax returns for the aforementioned years were required.

When the returns did not arrive and the petitioners did not withdraw their protest of the NODD, the Bureau forwarded the file to the Legal/Tax Policy Division for continuation of the appeals process.

The Tax Policy Specialist sent a letter to the petitioners that explained their alternatives for redetermining the NODD. As mentioned previously, [Redacted] responded but [Redacted] did not. Therefore, the Commission, believing petitioners have had an adequate amount of time to file their missing Idaho individual income tax returns, decides this matter based upon the information presently contained in the file.

The information obtained by the Bureau from [Redacted] showed that petitioners had income in excess of the filing requirement and there has been no dispute on [Redacted] status as an Idaho resident. As for whether or not [Redacted] was an Idaho resident, the Bureau assessed the petitioner as an Idaho resident based on numerous factors. According to the petitioner, she sold her home in [Redacted] and moved to Idaho on September 1, 2006. The petitioner stated she would stay with her brother in [Redacted] during the week and return to [Redacted] on the

weekends to be with her daughter and to take care of her ailing father. The petitioner was gifted this home in 2011 and began claiming the homeowners exemption. The petitioner may have worked and resided in [Redacted] for some time, but when she sold her [Redacted] home and moved with her daughter to Idaho, Idaho became her state of residence.

In addition, the petitioners' [Redacted] income tax returns for the aforementioned years showed an Idaho address and a filing status of Married, Filing Joint. Therefore, the Commission issued an NODD to petitioners, as Idaho residents, based upon the information received from [Redacted] and those records maintained by the Commission. The Commission used the same filing status and dependents as shown on their [Redacted] returns for taxable years 2009 through 2011. Idaho withholding in the amount of \$95 and \$405, respectively for taxable years 2010 and 2011, was identified and allowed to offset the amount of tax due. The penalty and interest additions were calculated in conformity with Idaho Code § 63-3045 and § 63-3046.

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). Petitioners have the burden of proving error on part of the deficiency determination by presenting information to support their argument. See Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

Petitioners have provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable years 2009 through 2011.

THEREFORE, the Notice of Deficiency Determination dated August 19, 2014, and directed to [Redacted], is hereby, APPROVED and MADE FINAL.

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>
2009	\$ 880	\$220	\$170	\$1,270
2010	3,585	896	506	4,987
2011	1,428	357	149	<u>1,934</u>
			TOTAL DUE	<u>\$8,191</u>

Interest is computed through February 2, 2016.

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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