

Idaho Code § 63-3045 (1) (a) states:

Notice of redetermination or deficiency -- Interest. (1) (a) 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 by first class mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

The Bureau prepared the missing Idaho returns on behalf of the petitioners and sent them an NODD. The NODD was based on the information obtained from the [Redacted], which included the adjustment to the petitioners' [Redacted] adjusted gross income as a result of the examination.

The petitioners protested the Bureau's determination. In their protest letter, dated April 22, 2013, the petitioners stated that they did file their income tax returns through an online service, but experienced problems. They stated they had requested copies be sent to them and once they arrived, they would forward them to the Bureau. On December 18, 2013, the Bureau received, from the petitioners, Idaho income tax returns for taxable years 2008 and 2009. However, these returns did not match the results of the [Redacted] audit. The petitioners were notified that the returns were not acceptable. The petitioners claimed to be still working with the [Redacted] and once a final determination was made by the [Redacted], they would send the figures to the Bureau. The Bureau acknowledged the petitioners' appeal and allowed them the additional time to resolve the matter with the [Redacted]. The petitioners did not provide the Bureau with any information to show the [Redacted] audit had been changed and their file was transferred to the Legal/Tax Policy Division for administrative review. The petitioners did not respond to a letter advising them of their appeal rights.

The Idaho individual income tax returns the Bureau prepared on behalf of the petitioners were based on income information gleaned from the petitioners' [Redacted] income records. For taxable year 2008, the petitioners filed a [Redacted] tax return showing a Married, filing joint filing status, two personal exemptions and an adjusted gross income of -\$42,217. After the [Redacted] redetermination of their income, the petitioners' adjusted gross income shown in [Redacted] records is \$46,390. For taxable year 2009, the petitioners filed a [Redacted] income tax return with a Married, filing joint filing status, two personal exemptions and an adjusted gross income of -\$17,127. The [Redacted] redetermination resulted in an adjusted gross income of \$46,197. The Bureau used the same filing status, personal exemptions, and the results of the [Redacted] audit, to determine the petitioners' Idaho income tax responsibility. No Idaho withholding was identified for either taxable year 2008 or 2009, nor was the grocery credit allowed to offset the amount of Idaho income tax due. The Commission, however, hereby modifies the NODD issued by the Bureau to include an allowance for the grocery credit, as it was included on the Idaho returns submitted by the petitioners.

The interest and penalty added by the Bureau, pursuant to Idaho Code §§ 63-3045 and 63-3046, was reviewed and found to be proper and in accordance with Idaho Code.

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 taxpayers to show the deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

Since the petitioners have not provided the Commission with a contrary result to the [Redacted] redetermination of their income, the Commission hereby upholds the deficiency as it pertains to the Idaho adjusted gross income, but modifies the deficiency to allow the petitioners the

grocery credit.

THEREFORE, the Notice of Deficiency Determination, dated February 27, 2013, is hereby MODIFIED, APPROVED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$1,619	\$405	\$415	\$2,439
2009	1,509	377	309	<u>2,195</u>
			TOTAL DUE	<u>\$4,634</u>

Interest is calculated through July 2, 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

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.
