

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 39191
[Redacted],	)	
	)	
Petitioners.	)	DECISION
	)	
_____	)	

On November 6, 2014, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] and [Redacted] (petitioners), proposing tax, penalty, and interest in the amount of \$330,460 for taxable years 2002 through 2009 and taxable year 2011.

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.

Tax Commission records showed the petitioners were residents of Idaho during the years at issue and did not file Idaho income tax returns for those years. The Bureau contacted the petitioners through numerous correspondences, notifying them of the missing returns. The petitioners responded, acknowledging their need to submit returns, and stating that they would begin gathering information and preparing the missing returns. A significant amount of time has passed, and many efforts have been made by the Commission, but as of today’s date, no returns for the aforementioned years have been filed by the petitioners.

Because the petitioners failed to file their Idaho income tax returns, the Bureau prepared returns for them and sent them an NODD. The NODD was based on [Redacted] income tax information and income information obtained by the Bureau through its research. On

December 15, 2014, the petitioners, through their appointed representative, responded to the NODD, questioning the inclusion of income from [Redacted] and [Redacted]. The representative requested the documentation used by the Bureau to determine [Redacted] ownership in these companies, as she was told these companies were owned by someone else. The Bureau provided the information requested on December 17, 2014. On December 30, 2014, a timely appeal of the notice was submitted by the representative, simply stating more time was needed to research the issues. The Bureau acknowledged the protest on January 2, 2015 and allowed the petitioners an additional six weeks in which to submit returns. On January 15, 2015, the appointed representative requested to be removed as the petitioners' Power of Attorney.

No returns were submitted to the Bureau and the petitioners' file was transferred to the Legal/Tax Policy Division for administrative review and continuation of the appeals process.

The tax policy specialist sent the petitioners a letter that outlined their appeal rights. A response to the letter was received, along with another Power of Attorney form appointing a new representative. An informal hearing was not requested, no additional information was received for consideration, and no income tax returns were submitted. The Commission, believing the petitioners have had more than an adequate amount of time in which to file their 2002 through 2009 and 2011 Idaho individual income tax returns, decides this matter based upon the information presently contained in the file.

Due to the lack of income information provided by the petitioners, the Bureau was forced to use alternative methods and conduct advanced research to determine the petitioners' income when preparing the returns on their behalf. The Bureau conducted a search of the Idaho Secretary of State records to determine if the petitioners were associated with any Idaho

businesses. Through this research, the Bureau discovered the late [Redacted] was the registered agent for numerous businesses in Idaho. A summons of the petitioners' personal bank records was also issued by the Bureau, which showed frequent deposits from several of the businesses [Redacted] was associated with. Based on this information and conversations with the petitioners, the Bureau determined [Redacted] was the true owner of several businesses, including [Redacted] and [Redacted]. The petitioners have provided no substantive documentation to demonstrate income from these companies should not be included on the petitioners' returns. Granted, the Bureau did use estimation to determine the gross income shown on the NODD, and the Commission realizes 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).

The returns prepared by the Bureau also included income information obtained from the [Redacted] and that found in Commission records, which consisted of W-2 wage information, 1099-Int forms, and 1099-S forms.

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 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 2002 through 2009 and taxable year 2011. However, subsequent to the issuance of the NODD, the Bureau did identify withholding for taxable year 2003 in the amount of \$982, which was allowed to offset the amount of tax due for that year. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated November 6, 2014, is MODIFIED, and as modified, 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>
2002	\$ 4,387	\$ 1,097	\$ 2,786	\$ 8,270
2003	7,776	1,944	4,533	14,253
2004	4,279	1,070	2,240	7,589
2005	3,482	871	1,614	5,967
2006	2,827	707	1,131	4,665
2007	20,096	5,024	6,624	31,744
2008	147,600	36,900	39,217	223,717
2009	14,921	3,730	3,223	21,874
2011	12,886	3,222	1,652	<u>17,760</u>
			<b>TOTAL</b>	<b><u>\$335,839</u></b>

Interest is calculated through September 30, 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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