

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
[Redacted])	DOCKET NO. 0-760-573-952
)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated March 30, 2017. Petitioners disagree with the adjustments to their 2013, 2014, and 2015 Idaho individual income tax returns. The Tax Commission reviewed the matter and found Petitioners' income tax returns were not accurate. The Tax Commission upholds the Notice of Deficiency Determination.

BACKGROUND

The Tax Discovery Bureau (Bureau) selected Petitioners' 2013, 2014, and 2015 Idaho individual income tax returns to review. During its review, the Bureau found Petitioners did not include all their income and overstated their withholdings. The Bureau adjusted Petitioners' Idaho income tax returns and sent them a Notice of Deficiency Determination.

Petitioners protested stating the accuracy of the amounts due is in question. Petitioners stated the Bureau's adjustments differ from the information they have. Petitioners provided two copies of their 2014 Idaho income tax return to support their position.

The Bureau acknowledged Petitioners' protest. The Bureau asked Petitioners to provide copies of their 2013 through 2015 federal income tax returns. Petitioners did not respond. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent Petitioners a letter asking how they wanted to proceed with their protest. Petitioners did not respond. Considering Petitioners' previous indifference to the

Bureau's request, the Tax Commission decided Petitioners had adequate notice and decided the matter based on the information available.

LAW AND ANALYSIS

Idaho Code § 63-3002 states that Idaho residents are taxed on their income from all sources. Petitioners did not report all the wages [Redacted] earned in 2013, 2014, or 2015.

Idaho Code § 63-3035 requires every employer making payments of wages or salaries earned in Idaho to deduct from their employee's wages or salaries an amount substantially equivalent to the employee's tax on the income earned. Petitioners reported withholdings on their Idaho income tax returns; however, the amounts reported did not agree with the withholding reported by Petitioners' employers.

The Bureau adjusted Petitioners' Idaho income tax returns to include all of Petitioners' income. The Bureau made a second adjustment to Petitioners' withholdings to reflect the amount reported by Petitioners' employers.

Petitioners questioned the accuracy of the Bureau's adjustments to their income tax returns. Petitioners stated, in a prior meeting with the audit staff, that their 2013 and 2014 returns were prepared by someone in their apartment complex. Petitioners stated the individual offered to help them prepare their returns. Petitioners stated this individual set them up an account with "TaxSlayer" so they could file their own 2015 income tax return. Petitioners stated they did not review the work done by the individual. Petitioners stated they prepared and filed their own return for 2015 using TaxSlayer. Petitioners thought they had all their W-2 forms when filing their returns since they waited until the end of January to file. Petitioners did not know why their withholdings were overstated.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct. The

burden is on the taxpayer to show that the deficiency is erroneous. *See 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 provided nothing, nor did they present an argument to show the unreported income was not earned by [Redacted]. Likewise, Petitioners did not explain why their reported withholdings did not agree with the amounts reported to the Tax Commission by their employers. Petitioners did not meet their burden.

The Tax Commission reviewed the adjustments to Petitioners' Idaho income tax returns. Based on the information available, the Tax Commission agrees that the adjustments are correct and appropriate.

The Bureau added the fraud penalty to Petitioners Idaho tax. The fraud penalty is added when there is an intent to evade tax. *See Idaho Code § 63-3046(b)*. The Tax Commission bears the burden of proving that a taxpayer acted falsely or fraudulently. When applying the fraud penalty, the Tax Commission must review all the facts and circumstances surrounding the preparation of the income tax returns. IDAPA 35.02.01 Tax Commission Administration and Enforcement Rules, Rule 420 gives guidance in what to consider when asserting fraud. Of the four areas listed, the ones of concern in this case are: the public and private statements regarding income or sales of the taxpayer; the taxpayer's knowledge of principles of finance, accounting, law, or taxation; and the objective and subjective evidence showing or tending to show intent to evade payment of tax.

The Bureau looked at Petitioners history of filing Idaho income tax returns and noted the reoccurring problem Petitioners had with reporting all their income. The Bureau began with tax year 2009 and found unreported income through tax year 2015. Petitioners did not report income in the amounts ranging from a low of \$497 in 2009 to a high of \$26,902 in 2012. In addition, the

Bureau found that Petitioners understated and overstated withholdings.

The Bureau also relied on statements [Redacted] made during an interview with the audit staff. [Redacted] stated that another individual prepared their 2013 and 2014 returns. [Redacted] stated she prepared their 2015 return. All Petitioners' returns were prepared using TaxSlayer software. [Redacted] stated the tax software filled in their W-2 wage information.

The public statements Petitioners made regarding their income and income tax returns is that they did not pay much attention to how their 2013 and 2014 returns were prepared. As for their 2015 return, Petitioners stated the tax software filled in their W-2 information. Petitioners did not know why some of their income was left off their returns or why their withholdings did not agree with what their employers filed.

Petitioners' knowledge of finance, accounting, law, and taxation appears to be limited. Petitioners took help from someone with no apparent credentials. Petitioners also took the advice of co-workers regarding their withholdings. Petitioners believed the reason for their increased refunds was because they were married and had children. It would seem Petitioners had at the most a very basic knowledge of filing their taxes.

As for showing Petitioners' intent to evade paying their tax, Petitioners' filing history tells the tale of unreported income and incorrect withholdings. In some respects, it seems Petitioners merely lack the due diligence and thoroughness of the average taxpayer. There is no doubt Petitioners were negligent, but it is questionable whether Petitioners had the intent to defraud and evade paying taxes.

Nevertheless, Petitioners did not avail themselves of the opportunity to show their innocence and lack of intent to defraud the state. Consequently, the Tax Commission upholds, in the broadest sense, the addition of the fraud penalty.

CONCLUSION

Petitioners filed their 2013 through 2015 Idaho individual income tax returns but failed to report all their income. The Bureau corrected Petitioners' returns. Petitioners provided nothing to show the additional income should not be included on their income tax returns. Therefore, the Tax Commission upholds the Notice of Deficiency Determination.

THEREFORE, the Notice of Deficiency Determination dated March 30, 2017, and directed to [Redacted] **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>
2013	\$1,524	\$762	\$254	\$2,540
2014	3,044	1,522	396	4,962
2015	822	411	73	<u>1,306</u>
			TOTAL DUE	<u>\$8,808</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of Petitioners' right to appeal this decision is enclosed.

DATED this _____ day of _____ 2018.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2018,
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.
