

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18626
[Redacted])	
Petitioner.)	DECISION
)	
)	

On January 6, 2005, the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted](Petitioner), asserting income tax, penalty, and interest in the amount of \$11,879 for the 2001 through 2003 taxable years. The Notice advised the Petitioner that, if he disagreed with the deficiency determined by the Bureau, he could petition the Tax Commission for a redetermination.

On March 10, 2005, the Petitioner timely filed an appeal and petition for redetermination. An informal telephonic hearing took place on October 11, 2005.

This decision is based on the information obtained from the Petitioner at the informal conference and information contained in the Tax Commission's files. For the reasons set forth below, the Tax Commission affirms the deficiency with interest updated through March 31, 2006.

I. FACTS

The Petitioner was an Idaho resident during the tax years at issue. He did not file Idaho income tax returns for the 2001 through 2003 taxable years. Based on information obtained by the Tax Discovery Bureau of the Idaho State Tax Commission, it appeared that the Petitioner had an Idaho income tax filing requirement for the years in question. Information received from an [Redacted] loan application shows that the Petitioner reported a base monthly income of approximately \$8,000. The mortgage application was dated October 21, 1999.

Based on the mortgage loan application information, the Tax Discovery Bureau prepared provisional returns for the Petitioner. The Bureau provided the Petitioner with personal deductions and exemptions and grocery credits. Once completed, the provisional returns showed a tax deficiency existed for each of the years at issue. The Bureau then issued a Notice of Deficiency Determination which included a description of the information relied upon, a copy of the provisional returns, a document showing the calculation of interest, and an explanation of the Petitioner's right to request a redetermination of the deficiency.

The Petitioner sent a letter of protest in response to the Notice of Deficiency Determination stating that he had no federal income tax liability for 2001 through 2003. Petitioner objected to the Notice of Deficiency Determination on the grounds that he was not within a class of persons to whom the Internal Revenue Code applied. The Petitioner submitted an "Affidavit of Material Facts" with his letter of protest.

An informal telephonic hearing was held on October 11, 2005. At this hearing, the Petitioner reiterated the fact that he did not have any "taxable income" for the years at issue and that the mortgage loan application should not be relied upon. The Petitioner stated that any income he had for those years would be Federal Form 1099 income, but he had no Form 1099s for 2001 through 2003.

II. ANALYSIS

The Petitioner argues that he had no taxable income for the years at issue. Petitioner stated that any income he had in 2001, 2002, and 2003 would have been Federal Form 1099 income, and he did not receive any Form 1099s. However, the Tax Commission has provided evidence of income from a statement made by the Petitioner on a mortgage application.

The Tax Commission prepared provisional returns for the Petitioner based on the best available income information. Provisional returns prepared by the Tax Commission are presumed to be correct. *Parsons v. Idaho State Tax Comm'n*, 110 Idaho 572, 574 n.2 (Ct. App. 1986); *see also Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846,850 (1984). Thus, the burden is on the taxpayer to come forth and prove that the mortgage information should not be used to generate the provisional returns.

The Tax Commission has shown that it relied upon Petitioner's statement in a mortgage application. Petitioner has not refuted that statement nor provided any information to show that the income statement in the loan application is not a correct representation of his income for the taxable years at issue. The Petitioner simply states that he had no taxable income for the 2001, 2002, and 2003 tax years. The Petitioner has been given ample opportunity to refute the determination of the Tax Commission based on the mortgage application. Therefore, based on the information available, the Tax Commission finds the provisional returns to be a fair representation of the Petitioner's taxable income for 2001, 2002, and 2003.

III. DECISION

WHEREFORE, the Notice of Deficiency Determination dated January 6, 2005, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the Petitioner pay the following tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
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2001	\$2,945	\$736	\$691	\$4,372
2002	2,920	730	498	4,148
2003	2,847	712	334	3,893

TOTAL DUE \$12,413

Interest is calculated through March 31, 2006, and will continue to accrue until paid.

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

An explanation of the Petitioner's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2006, 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.
