

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18699
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On January 7, 2005, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 2002 in the total amount of \$4,671.

On March 11, 2005, the taxpayer filed an appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and provided nothing further for the Tax Commission to consider. However, due to an administrative error, the Notice of Deficiency Determination had to be reissued. The taxpayer was given an additional 63 days to provide any additional information, yet he still failed to respond. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer operated a small business in Idaho during 2002. He completed and filed sales and use tax returns and withholding returns for the year with the Tax Commission. The Tax Discovery Bureau (Bureau) researched the Tax Commission's records and found the taxpayer did not file an Idaho income tax return. The Bureau requested a filing from the taxpayer but did not receive a response. The Bureau prepared a return for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer protested.

In the taxpayer's protest, he completed the questionnaire the Bureau sent him indicating that he was not required to file an Idaho income tax return. He stated he was a resident of the state of

[Redacted] and that his income was derived from sources outside the state of Idaho. The Bureau acknowledged the taxpayer's protest and referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. The Tax Commission sent the taxpayer a follow-up letter but still received no response from the taxpayer. Therefore, the Tax Commission decided this matter based upon the information available.

The taxpayer owned and operated a small business in [Redacted], Idaho, called [Redacted]. The business began operating in 2001 and continued through 2002. The total sales for 2002 reported to the Tax Commission by the taxpayer for this business was \$75,774.58. The taxpayer also reported an Idaho payroll for 2002 of \$16,773. From the filings of this business, it appears that the business is a sole proprietorship of the taxpayer.

Idaho Code section 63-3030(a)(2) states in pertinent part,

(a) Returns with respect to taxes measured by income in this chapter shall be made by the following: . . .

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500) . . .

The taxpayer's total sales in Idaho far exceed the filing requirement of Idaho Code section 63-3030. Therefore, the taxpayer was required to file and report his Idaho source income to Idaho.

The Bureau used the information from the sales and use tax returns and the withholding returns to determine the taxpayer's Idaho taxable income. The taxpayer is likely entitled to additional deductions from the operations of his Idaho business; however, he has failed to provide any information or documentation for the deductions.

Deductions are a matter of legislative grace and the taxpayer bears the burden of proving

that there is a provision in the law providing for the deduction and that he comes within the parameters of such law. New Colonial Ice v. Helvering, 54 S.Ct. 788 (1934). The taxpayer has failed to carry his burden of proof with regard to any additional deductions. It is also well established in Idaho that a State Tax Commission deficiency notice is presumed to be correct and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer has failed to meet this burden, too. Therefore, the Tax Commission upholds the Bureau's calculation of the taxpayer's Idaho tax as being accurate based upon the information available.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

WHEREFORE, the Notice of Deficiency Determination dated April 20, 2006, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$3,737	\$ 934	\$ 750	\$5,421

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

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

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE MAIL

I hereby certify that I have on this ____ day of _____, 2006, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.