

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18890
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On May 13, 2005, the staff of the Tax Discovery Bureau (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 years 1996 through 1999, 2002, and 2003 in the total amount of \$84,880.

On July 6, 2005, the taxpayer filed a timely appeal and petition for redetermination. However, since filing his petition, the taxpayer has not provided any additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer is a two-time non-filer with the state of Idaho. The Bureau worked with him to get his 1991 through 1995 returns filed, and this case deals with the taxpayer's individual income tax returns for the years 1996 through 1999, 2002, and 2003. The Bureau tried to contact the taxpayer personally and through letters regarding his requirement to file income tax returns for those years. The taxpayer did not respond to the messages or the letters.

The Bureau obtained information from [Redacted] third party sources. The Bureau determined the taxpayer did have a filing requirement for the years in question. The Bureau used the information available to determine the taxpayer's taxable income, to prepare returns for the taxpayer, and then to send him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination stating that he believed he filed his 1991 through 1998 returns but he was unsure of his 1999 filing. He stated that he had no income after 1998 because his business ceased to exist in 1998. The taxpayer said he would begin with 1999 and have all the returns completed in a couple of months. Two months passed and the Bureau had received nothing from the taxpayer.

The Bureau 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 responded asking for the information the Bureau used to determine his income. The Tax Commission provided that information and waited for a reply, but the taxpayer did not respond. The Tax Commission sent the taxpayer a follow-up letter but still the taxpayer failed to provide anything. Therefore, the Tax Commission decided the matter based upon the information available.

The Bureau obtained information from the IRS that showed the taxpayer either received or paid out significant sums of money. The Bureau also obtained information from a third party source wherein the taxpayer stated his monthly gross income was \$10,000 and his monthly mortgage payment was \$2,000. Another source of information showed the taxpayer had studio apartments in [Redacted], Idaho, that he rented for \$300 per month.

Idaho Code section 63-3030 provides the thresholds for filing Idaho income tax returns. Resident individuals are required to file Idaho income tax returns if they have income from all sources in excess of the exemption amount plus the basic standard deduction for the individual. From the information available, it is clear the taxpayer received income in excess of the filing threshold; therefore, he was required to file Idaho individual income tax returns.

As for the determination of the taxpayer's taxable income, it is well settled in Idaho law 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). This includes the determination of taxable income. The taxpayer has provided nothing to show the Bureau's income determination was in error. He has not met his burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The Tax Commission reviewed the Bureau's determination and found it reasonable based upon the taxpayer's statements in the third party documents. Therefore, absent information to the contrary, the Tax Commission upholds the Bureau's determination of the taxpayer's taxable income.

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

WHEREFORE, the Notice of Deficiency Determination dated May 13, 2005, 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>
1996	\$ 9,050	\$ 2,263	\$ 6,077	\$17,390
1997	9,025	2,256	5,274	16,555
1998	9,013	2,253	4,571	15,837
1999	9,004	2,251	3,911	15,166
2002	8,475	2,119	1,805	12,399
2003	8,463	2,116	1,355	<u>11,934</u>
			TOTAL DUE	<u>\$89,281</u>

Interest is calculated to December 15, 2006.

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 BY 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]
[REDACTED]

Receipt No.
