

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 18931 |
| [REDACTED], |) | |
| |) | DECISION |
| Petitioner. |) | |
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On May 10, 2005, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) [Redacted] (petitioner), proposing income tax, penalty, and interest for the years 1998, 1999, 2000, 2001, 2002, and 2003 in the total amount of \$81,689.

On July 8, 2005, a timely protest and petition for redetermination was filed by the petitioner. An informal hearing has not been requested by the petitioner. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner had failed to file his 1998, 1999, 2000, 2001, 2002, and 2003 individual income tax returns. On September 13, 2004, the TDB sent a letter with a questionnaire to the petitioner to help the Commission properly determine the petitioner's filing requirement.

The petitioner responded by sending a letter dated October 4, 2004, along with a completed questionnaire but did not return the TDB's letter which had questions concerning the petitioner's filing requirement. In the questionnaire, the petitioner marked that he was a legal resident of Idaho and self-employed [Redacted]. In the petitioner's letter he stated that he should have all the information that the TDB requested to them within 15 days.

On March 30, 2005, the TDB resent the nonfiler letter to the petitioner because he had not returned it. The letter also had questions to help the Commission properly determine the petitioner's filing requirement. The petitioner did not return this letter or provide returns, so [Redacted] the

petitioner's [Redacted] a NOD to the petitioner for all years.

The TDB sent the letter which included the NOD by certified mail on May 10, 2005. The letter was returned to the commission by the U.S. Postal Service stamped "Unclaimed." The TDB sent the letter including copies of the previously sent documents by regular mail to give the petitioner an opportunity to review the NOD and to preserve his appeal rights.

In the petitioner's protest letter dated July 6, 2005, he stated:

I am in receipt of your letter of May 31 regarding my delinquent tax, I would like to appeal the charges. I [Redacted] and am still taking pain medication.
I will fill all the appropriate paperwork by Aug. 15, 2005

On November 25, 2005, the Tax Policy Specialist (policy specialist) sent the petitioner a letter to inform him of the alternatives for redetermining a protested NOD.

On December 29, 2005, the policy specialist received a letter from the petitioner in which he stated:

I am sorry for being so long in getting back to you. I have been out of town and sick for an extended length of time.
I would like to submit statements and documents for the commission's consideration. I will have these documents to you by Jan. 20, 2006.

On January 20, 2006, the policy specialist received a letter from the petitioner in which he stated:

I will not be able to produce the documents as promised by Jan. 20, 2006. [Redacted]. I can do little or no work at this time. I am receiving treatment and will be seen by a spine doctor this coming week. I wil submit the necessary papers as soon as possible.

As of the date of this decision, no returns have been filed by the petitioner.

It is well settled in Idaho that a NOD issued by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984);

Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioner to show that the tax deficiency is erroneous. Id. Since the petitioner has failed to meet the burden in this case, the Tax Commission finds that the amount shown due on the NOD is true and correct.

The petitioner has not provided the Commission with a contrary result to the determination of his income [Redacted] Therefore, the Commission must uphold the deficiency.

WHEREFORE, the Notice of Deficiency Determination dated May 10, 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> |
|-------------|------------|----------------|-----------------|-----------------|
| 1998 | \$8,605 | \$2,151 | \$4,539 | \$15,295 |
| 1999 | \$11,445 | \$2,861 | \$5,196 | \$19,502 |
| 2000 | \$10,212 | \$2,553 | \$3,822 | \$16,587 |
| 2001 | \$6,462 | \$1,616 | \$1,921 | \$9,999 |
| 2002 | \$8,934 | \$2,234 | \$2,082 | \$13,250 |
| 2003 | \$8,919 | \$2,230 | \$1,605 | <u>\$12,754</u> |
| | | | TOTAL DUE | <u>\$87,387</u> |

Interest is computed through March 31, 2007.

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.
