

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19868
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On September 29, 2006, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income tax, penalty, and interest for taxable years 2002 through 2004 in the total amount of \$9,610.

The taxpayer filed a timely appeal. He did not request a hearing. The Tax Commission has reviewed the file and hereby issues its decision based upon the information contained in the file.

Tax Commission records showed the taxpayer met the Idaho income tax filing requirements. Because he had not filed Idaho returns for the years at issue, the Bureau contacted him for clarification. In response to a questionnaire, the taxpayer asked for Idaho income tax forms.

[Redacted] Idaho Code § 63-3045 (1)(a) states:

63-3045. Notice of redetermination or deficiency -- Interest. (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

Determining the taxpayer had a requirement to file Idaho individual income tax returns, the Bureau computed the taxpayer's Idaho tax responsibility on his behalf and sent him a NODD. The taxpayer protested the determination.

The Bureau sent the taxpayer a letter to acknowledge his protest and to advise him of the need to file 2002 through 2004 Idaho individual income tax returns in order to change the information shown in the NODD. He was allowed additional time.

The taxpayer's file was transferred to the Legal/Tax Policy Division of the Tax Commission. He was sent a letter advising him of his right to request an informal conference or to submit additional information.

On May 23, 2007, the taxpayer telephoned to say he was mailing his 2002 Idaho return that day. He stated that he had no idea when the 2003 and 2004 returns could be completed and sent.

On May 29, 2007, the Tax Commission received a 2002 Idaho individual income tax return from the taxpayer and his wife that was prepared with a filing status of married filing joint and a personal check in the amount of \$387. That 2002 Idaho return is accepted as filed subject to review as provided in the Idaho Code. Therefore, the portion of the NODD addressing 2002 is cancelled and will not be discussed further in this decision.

Because the check submitted with the return had the restriction, "'02' state tax in full paid under protest" on the face of the check, it was not accepted as submitted. The check and a letter were sent to the taxpayer explaining that all returns filed with the State Tax Commission are subject to audit. The taxpayer was advised that, if he wished to submit the check without the restriction, the State Tax Commission would be happy to accept it and apply it to the taxpayer's and his wife's 2002 Idaho individual income tax liability.

The taxpayer sent the same check back to the Tax Commission with the words “in full” crossed out and “you’ve got to be kidding!!” written in. The original check was written with blue ink and the changes to that check were made with black ink. That check was not applied to the taxpayer’s account. It is held in the taxpayer’s file.

The taxpayer has not filed his 2003 and 2004 Idaho income tax returns and has submitted nothing that would cast doubt on the Bureau’s determination that was based on records retained by [Redacted] the State Tax Commission. The filing status of married filing separate was used because, by not filing state or federal income tax returns, the taxpayer did not make the election to file joint returns. One-half of the community income was used to determine the tax amount. No withholding was identified.

The interest and penalty calculated pursuant to Idaho Code §§ 63-3045 and 63-3046 were reviewed and found to be proper and in accordance with the Idaho Code.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of his argument, the taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Albertson’s, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated September 29, 2006, is MODIFIED and, as so modified, is 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>
2003	\$2,488	\$622	\$521	\$3,631

2004	2,507	627	375	<u>3,509</u>
			TOTAL DUE	<u>\$7,140</u>

Interest is computed through September 1, 2007.

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 with this decision.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2007, 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.
