

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20112
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On February 7, 2007, 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 years 1998 and 2000 through 2005 in the total amount of \$170,198.

On April 10, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Commission's records showed the taxpayer was operating two businesses in [Redacted] Idaho. The Tax Discovery Bureau (Bureau) researched the Tax Commission's records and found the taxpayer had not filed individual income tax returns for the tax years 1998 and 2000 through 2005. The Bureau sent the taxpayer a letter asking him about his requirement to file Idaho income tax returns. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer was required to file Idaho income tax returns. The Bureau prepared income tax returns for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. He stated he was surprised by the amount of the tax liability and that he was looking into the matter. The taxpayer argued that the

Bureau did not allow him any business expenses other than payroll. He stated his lease alone was over \$60,000 a year, and he also had monthly expenses such as electricity, gas, telephone, supplies, maintenance, and many others. The taxpayer stated he would work on one year at a time and, if there was a tax liability, he was committed to paying it.

The Bureau extended its timeline to allow the taxpayer additional time to provide additional information or self-prepared income tax returns. Nevertheless, the taxpayer failed to provide anything further for the Bureau to review. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not respond. The Tax Commission sent a follow-up letter to the taxpayer, but still the taxpayer failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

[Redacted]. Those establishments reported their gross sales and payroll withholdings to the Idaho State Tax Commission. For each year in question, the taxpayer's businesses reported gross sales well in excess of the filing threshold provided in Idaho Code section 63-3030. However, the Tax Commission had no record of the taxpayer filing income tax returns for 1998 and 2000 through 2005. The taxpayer is an Idaho resident, and he does not contest his requirement to file Idaho individual income tax returns.

The taxpayer argued that the Bureau did not allow him any of the expenses his businesses incurred, other than payroll. Yet the taxpayer did not provide any documentation or evidence in support of his expenses. The taxpayer bears the burden of proving that he is entitled to a deduction. Higgins v. C.I.R., T. C. Memo. 1984-330 (1984). The burden rests on the taxpayer

to disclose his receipts and claim his proper deductions. United States v. Ballard, 535 F.2d 400 (1976). Whether and to what extent deductions shall be allowed depends upon legislative grace, and only as there is clear provision therefor can any particular deduction be allowed. A taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms. New Colonial Ice Co., Inc. v. Helvering, 292 US. 435, 54 S.Ct. 788 (1934). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Since the taxpayer has not provided any documentation to support the expenses he claims he is entitled, no additional deductions are allowed.

In Idaho, a State Tax Commission deficiency determination 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 not met his burden. Therefore, the Tax Commission upholds the Bureau's computation of the taxpayer's Idaho tax liability.

The Bureau added interest and penalty to the taxpayer's tax deficiency. The Tax Commission reviewed those additions and found that they are appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated February 7, 2007, 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>
1998	\$ 8,713	\$2,178	\$5,153	\$ 16,044
2000	5,378	1,345	2,358	9,081
2001	18,933	4,733	6,842	30,508
2002	22,734	5,684	6,754	35,172
2003	21,024	5,256	5,134	31,414
2004	20,566	5,142	3,788	29,496
2005	18,691	4,673	2,321	<u>25,685</u>
			TOTAL DUE	<u>\$177,400</u>

Interest is computed to March 1, 2008.

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 _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

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