

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19878
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On September 25, 2006, 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 tax years 2003 and 2004 in the total amount of \$10,014.

On November 27, 2006, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather stated she would provide income tax returns for the Tax Commission's consideration. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer was referred to the Tax Discovery Bureau (Bureau) by the collection staff of the Idaho State Tax Commission. The taxpayer owed sales tax on the sales she made in 2003 and 2004 [Redacted]. The collection staff found from the Tax Commission's records that the taxpayer did not file income tax returns for 2003 or 2004. The Bureau sent the taxpayer a letter asking about her requirement to file Idaho individual income tax returns. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer did have a requirement to file Idaho income tax returns. The Bureau prepared income tax returns for the taxpayer using the information available and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer stated she owed sales tax for the periods of October, November, and December of 2004 but believed she had no

income tax liability for either 2003 or 2004. She stated that her accountant told her she did not need to file income tax returns since she had no income. The taxpayer stated she closed her business in December 2004 and that all her records, equipment, and inventory were stolen from her storage unit [Redacted].

The Bureau continued corresponding with the taxpayer convincing her that even though she lost her records and supposedly had no income, she was still responsible for reporting her loss by filing income tax returns. The Bureau extended the time for the taxpayer to provide her income tax returns several times, yet no returns were received. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer responded that she had retrieved some of her belongings which included two boxes of records from her business. She stated she was going to her tax preparer, and as soon as her tax returns were completed, she would send them to the Tax Commission.

The Tax Commission continued corresponding with the taxpayer to get the progress of her return preparation. About a month later, the taxpayer submitted her 2003 income tax return. She also stated her 2004 return would not be completed until the end of the month. The Tax Commission allowed the taxpayer the additional time, but when several months passed and no 2004 return was provided, the Tax Commission sent the taxpayer a letter giving her a deadline to have the return submitted.

The taxpayer contacted the Tax Commission and stated that she was having difficulties getting her return prepared by her current accountant. She stated that her accountant disappeared after getting married and no one in the accounting firm had access to the accountant's computer

where all the taxpayer's information was stored. When the accountant finally reappeared, the taxpayer met with her to finish up the 2004 return. The accountant told the taxpayer she needed some additional information; however, when the taxpayer had the information to provide to the accountant, the accountant was not available again. The taxpayer finally gave up on that accountant and found another individual to help her prepare her 2004 return. Nevertheless, even though the taxpayer enlisted the help of someone new, the taxpayer's 2004 return was never produced.

Therefore, the Tax Commission, believing that the taxpayer had sufficient time to provide any information she wanted considered, decided the matter based upon the information available and provided.

The Bureau prepared the taxpayer's 2003 and 2004 Idaho individual income tax returns based upon the sales tax returns the taxpayer filed with the Tax Commission. These returns reported the gross sales the taxpayer made in her [Redacted] business. The taxpayer's sales for each of the years exceeded the filing threshold amounts of Idaho Code section 63-3030. Therefore, the Tax Commission agreed with the Bureau's finding that the taxpayer was required to file Idaho individual income tax returns for both 2003 and 2004.

The taxpayer did provide her 2003 income tax return for consideration in this matter. The Tax Commission reviewed that return and found it to be a better representation of the taxpayer's Idaho taxable income for that year. Therefore, the Tax Commission accepts the taxpayer's 2003 return, subject to the review process of the Tax Commission, in lieu of the return prepared by the Bureau for that year.

The taxpayer failed to provide an income tax return for 2004. She also failed to provide anything to show the 2004 return prepared by the Bureau was incorrect. 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 her burden. The Tax Commission recognizes that the 2004 return prepared by the Bureau does not account for any business expenses the taxpayer may have had in the operation of her [Redacted] business. However, deductions are a matter of legislative grace, and the taxpayer must be able to show that her deductions fall within the terms of the statute for the deduction. New Colonial Ice Co., Inc. v. Helvering, 292 US. 435, 54 S.Ct. 788 (1934). Furthermore, it is the taxpayer's responsibility to disclose her receipts and claim her proper deductions. United States v. Ballard, 535 F.2d 400 (1976). Since the taxpayer has done neither, the Tax Commission upholds the Bureau's determination of the taxpayer's 2004 Idaho income tax liability.

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

WHEREFORE, the Notice of Deficiency Determination dated September 25, 2006, is hereby MODIFIED, in accordance with the provisions of this decision 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 (interest is computed to March 1, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$ (10)	\$ 0	\$ 0	\$ (10)
2004	4,862	1,216	1,220	<u>7,298</u>
			TOTAL DUE	<u>\$ 7,288</u>

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

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

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, 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.
