

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19966
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On January 8, 2007, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing income tax, penalty, and interest in the total amount of \$1,074 for tax years 2002 and 2003.

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 modifying the NOD.

The petitioner failed to file his 2002 and 2003 individual income tax returns. On October 25, 2006, the TDB sent a letter with a questionnaire to the petitioner to help the Commission properly determine the petitioner's filing requirement. The petitioner did not respond to this letter. [Redacted] [Redacted]

In the protest letter dated January 17, 2007, the petitioner stated that his 2002 return was past the three-year statute of limitations. The petitioner also stated his tax professional told him that he was not required to keep tax forms or documentation for more than three years. The petitioner stated that he destroyed his forms and documentation for tax year 2002 putting him at a disadvantage to prove or disprove the Commission's determination.

The TDB sent the petitioner a letter dated January 22, 2007, which requested he send his 2002 and 2003 Idaho individual income tax returns by February 21, 2007. The petitioner was

informed that the deficiency was based on his federal filings for both years. The petitioner's W-2s were available, and he was given credit for his Idaho withholding. The recalculations also included the petitioner's itemized deductions for 2002. The petitioner was informed that there is no statute of limitations for returns that are not received by the Commission. It is the petitioner's responsibility to make sure all of his returns have been filed.

The petitioner's 2003 individual income tax return was received on April 4, 2007. The return is subject to the normal review process and the three-year statute of limitations beginning on the date the return was submitted to the Tax Commission. The petitioner's return for tax year 2003 will no longer be addressed in this decision.

On April 20, 2007, the Tax Policy Specialist (policy specialist) sent the petitioner a letter to inform him of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioner on June 6, 2007. The petitioner did not respond to either letter.

The petitioner has not provided the Commission with information to establish that the amounts asserted in the NOD, as adjusted, are incorrect. As a result, the Commission will uphold the NOD, as adjusted. A deficiency determination of the State Tax Commission is presumed to be correct. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the petitioner to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986).

[Redacted] 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 as modified.

WHEREFORE, the Notice of Deficiency Determination dated January 8, 2007, as MODIFIED, 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>
2002	\$321	\$80	\$102	\$503

Interest is computed through June 26, 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.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

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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.

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