

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 19987
[REDACTED],)
) DECISION
)
Petitioner.)
)
_____)

On December 4, 2006, 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 for the taxable years 1997, 1998, 1999, 2001, 2003, and 2004 in the total amount of \$19,544.

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 failed to file his 1997, 1998, 1999, 2001, 2003, and 2004 individual income tax returns. On July 12, 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 responded to the TDB’s letter in an e-mail dated August 7, 2006, that stated that he would submit the required returns as soon as possible.

The TDB replied to the petitioner’s e-mail giving him 30 days to contact the TDB or a provisional return would be issued to him based on the information available to the Commission. [Redacted]. The Commission issued a NOD to the petitioner on December 4, 2006, [Redacted].

In the petitioner’s protest letter dated February 5, 2007, he stated that he located bank statements, invoices, and other general accounting documents which proved less income than the TDB’s determination. The petitioner requested to be contacted to negotiate a reasonable

deadline for him to produce tax returns for the years in question.

The TDB sent the petitioner a letter dated February 9, 2007, which requested he send his 1997 through 1999, 2001, 2003, and 2004 Idaho individual income tax returns by March 11, 2007. The petitioner did not respond to this letter.

On March 19, 2007, the petitioner stated in an email to the TDB that he was mistaken when he informed the TDB that his 1997 returns had been sent to the TDB last Monday but has now packaged the 1997 returns, along with the three following years and would mail them that day. The petitioner also stated that he was still struggling with the 1998 and 1999 returns but it was his intention to have those two remaining years ready to send by the end of the week.

The TDB responded that it would wait until March 30, 2007, before taking any further action because the returns that the petitioner just sent should be received.

On April 6, 2007, the TDB sent the petitioner an e-mail which stated that the package the petitioner sent had not been received. The TDB also requested an update on his progress with the other years' returns and to contact the TDB by April 20, 2007. The petitioner did not respond to this e-mail. The petitioner's file was sent to the Commission's Legal/Tax Policy Division for further review.

On June 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 August 8, 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 are incorrect. A 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.

WHEREFORE, the Notice of Deficiency Determination dated December 4, 2006, 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>
1997	\$1,164	\$ 291	\$ 805	\$ 2,260
1998	1,010	253	624	1,887
1999	7,645	1,911	4,144	13,700
2001	711	178	275	1,164
2003	275	69	75	419
2004	853	213	176	<u>1,242</u>
			TOTAL DUE	<u>\$20,672</u>

Interest is computed through July 2, 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

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.
