

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20208
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On March 16, 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 for the taxable years 2003, 2004, and 2005 in the total amount of \$12,491.

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 2003, 2004, and 2005 individual income tax returns. On November 20, 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]. The Commission issued an NOD to the petitioner on March 16, 2007, [Redacted].

In the petitioner's protest letter received by fax on May 17, 2007, the petitioner stated that he disputed the amount of tax owed for the years 2003, 2004, and 2005. The petitioner stated that he was in the process of having his accountant do his tax for those years and would submit those tax reports in the next couple of months. The petitioner stated that at that time he would have had a determination of his own taxes.

The TDB sent the petitioner a letter dated May 17, 2007, which requested he send his 2003 through 2005 Idaho individual income tax returns by June 18, 2007. The petitioner did not respond

to this letter.

On August 7, 2007, the TDB sent the petitioner a letter stating the Commission had not received his returns. The petitioner's representative indicated to the TDB that the petitioner's returns had been completed but had not been picked up by the petitioner. The TDB requested that the petitioner provide his returns by August 31, 2007, to the TDB's attention. If the petitioner's returns were not received by that date, his file would be forwarded to the Commission's Legal/Tax Policy division.

On October 18, 2007, the Tax Policy Specialist (policy specialist) sent the petitioner a letter to inform him of the alternatives for redetermining a protested NOD.

The Commission received the petitioner's returns for tax years 2003 and 2004 on October 30, 2007. After reviewing these returns, the Commission determined that the petitioner's 1099-B income had not been reported on the petitioner's submitted returns. The petitioner's taxable income from his returns was adjusted by the amount of unreported income. The petitioner's 2003 and 2004 returns are subject to the Commission's normal review process.

A follow-up letter was sent to the petitioner on February 1, 2008, which stated:

On October 18, 2007, we sent you a letter in response to your letter of protest dated May 17, 2007, regarding the above matter. A copy of that letter is enclosed.

The Tax Commission received your 2003 and 2004 individual income tax returns. Please provide your 2005 individual income tax return or let me know which of the options outlined in my letter of October 18, 2007, you would like to follow. We will hold this matter in abeyance for another ten (10) days awaiting your reply. If at the end of that time we have not heard from you, the Commission may issue a decision based upon the record.

The petitioner did not respond to this 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 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 March 16, 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>
2005	\$2,590	\$648	\$778	\$4,016
2004	(10)	0	0	(10)
2005	2,700	675	488	<u>3,863</u>
			TOTAL DUE	<u>\$7,869</u>

Interest is computed through December 20, 2008, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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.

[REDACTED]
