

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20319
[Redacted],	)	
	)	DECISION
Petitioner.	)	
	)	
	)	
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On April 16, 2007, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) in care of [Redacted] (former representative) proposing income tax, penalty, and interest for the taxable years 1998, 1999, and 2005 in the total amount of \$14,661.

An informal hearing has not been requested by the petitioner or his former representative. 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 1998, 1999, 2000, 2001, 2002, 2003, 2004, and 2005 individual income tax returns. On November 21, 2006, the TDB sent a letter to the former representative that stated a review of the Commission's database indicated that the petitioner's Idaho individual income tax returns for the years 1998 through 2005 had not been received by the Commission. Information available [Redacted] showed that the petitioner had met the requirements to file his returns for those years. A request was made to the former representative to complete the petitioner's income tax returns and send them to the TDB no later than December 29, 2006.

In January and February of 2007, the former representative submitted the petitioner's 2000 through 2004 income tax returns.

On February 27, 2007, the TDB sent the former representative a letter which requested they contact the Tax Enforcement Specialist by March 7, 2007, to discuss the completion dates for the petitioner's 1998, 1999, and 2005 Idaho individual income tax returns. The former representative did not respond to this letter. The Commission issued an NOD to the petitioner in care of the former representative on April 16, 2007, [Redacted].

The TDB received the petitioner's 2005 return on June 13, 2007.

The TDB sent the former representative a letter dated June 26, 2007, which stated that the petitioner's 2005 return postmarked June 12, 2007, was a timely petition for redetermination of the amount asserted in the notice of deficiency dated April 16, 2007.

A new power-of-attorney form was received by the TDB naming [Redacted] the petitioner's new representative (new representative).

On July 30, 2007, the TDB sent a letter to the new representative that requested he send the petitioner's 1998 and 1999 Idaho individual income tax returns by August 20, 2007. The new representative did not respond to this letter.

The TDB sent the new representative a letter dated October 3, 2007, that canceled the petitioner's NOD issued April 16, 2007, for tax year 2005 only. The tax year 2005 will not be addressed any further in this decision.

On October 22, 2007, the Tax Policy Specialist (policy specialist) sent the new representative a letter to inform him of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the new representative on December 21, 2007.

The new representative responded by sending in the petitioner's 1999 Idaho income tax return. The Commission determined that the submitted return represent the petitioner's taxable income better than the return prepared by the TDB. Therefore, the Commission hereby cancels

the Notice of Deficiency Determination dated April 16, 2007 for tax year 1999 only. The petitioner's 1999 return will be processed and is subject to the normal review process. The tax year 1999 will not be addressed any further in this decision.

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 April 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>
1998	\$ 940	\$235	\$596	\$1,771

Interest is computed through October 8, 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 with this decision.

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.

[Redacted]