

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20415
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On February 20, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income tax, penalty, and interest for tax years 2001, 2002, and 2004 in the total amount of \$7,267.

The taxpayer protested the determination. He did not request a hearing, but he did provide additional information. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Idaho Code § 63-3030 states:

- 63-3030. Persons required to make returns of income.**
- (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:
    - (1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code).
    - (2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

Information available to the Tax Commission indicated the taxpayer was an Idaho resident who met the filing requirements for filing Idaho resident income tax returns during the years in question. [Redacted].

Idaho Code § 63-3045 (1)(a) states:

**63-3045. Notice of redetermination or deficiency -- Interest.** (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

Determining the taxpayer had a requirement to file resident individual income tax returns, the Bureau prepared Idaho returns on his behalf and sent him a NODD. The taxpayer appealed. Subsequently, the taxpayer submitted his 2004 Idaho individual income tax return. The taxpayer's 2004 Idaho return is accepted as filed subject to review as provided in Idaho Code. The taxpayer's 2004 Idaho individual income tax return will not be discussed further in this decision.

In his letter of protest, the taxpayer said he would provide returns for tax years 2001 and 2002. However, when the promised returns did not arrive, his file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter from the Tax Policy Specialist wherein he was advised of his rights regarding his appeal.

[Redacted] Withholding in the amount of \$928 for 2001 and \$544 for 2002 was allowed to reduce the tax due for each year. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986).

The burden is on the taxpayer to show that the NODD is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer has failed to file his 2001 and 2002 Idaho individual income tax returns. Absent information to the contrary, the Tax Commission accepts the Bureau's calculation of Idaho income tax for those years.

WHEREFORE, the Notice of Deficiency Determination dated February 20, 2007, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pays the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$423	\$106	\$151	\$ 680
2002	817	204	238	<u>1,259</u>
			TOTAL DUE	<u>\$1,939</u>

Interest is calculated through January 31, 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 with this decision.

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.

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