

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20441
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On July 27, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for tax years 2001 through 2005 in the total amount of \$51,465.

On August 11, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to provide income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau received information that indicated the taxpayer had a filing requirement with the state of Idaho. The Bureau reviewed the Tax Commission's records and found that the taxpayer had not filed Idaho individual income tax returns since at least 2000. The Bureau sent the taxpayer a letter asking about his requirement to file Idaho income tax returns. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer was required to file Idaho income tax returns for the years 2001 through 2005. The Bureau prepared income tax returns for the taxpayer based upon the information available and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. He stated that the Bureau determined his income on his gambling winnings only. The taxpayer stated he had documented gambling losses that exceeded his winnings. He stated he would file his income tax returns for all the

years. The taxpayer stated that two of the four years were already completed plus a third year not included in this inquiry. He stated that he would send in those returns within a month.

The Bureau allowed the taxpayer the additional time to file his returns. But, after not receiving anything from the taxpayer within the time specified, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter giving him the opportunity to present his position through one of two methods the Tax Commission adopted for redetermining a protested Notice of Deficiency Determination. The taxpayer contacted the Tax Commission and stated that he would provide income tax returns for the Tax Commission to consider. Nearly a year later, the taxpayer had all the returns for the years in question submitted.

The Tax Commission reviewed the taxpayer's returns and found them to be a better representation of the taxpayer's taxable income than the returns prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayer's returns subject to the normal review process of the Tax Commission; the statute of limitations for examination or review of the returns beginning on the day each return was received by the Tax Commission.

The taxpayer's returns for 2001 through 2004 resulted in refunds due the taxpayer. However, Idaho Code sections 63-3024A and 63-3072 state that no refund or credit is allowed if the claim for credit or refund is beyond three years from the due date of the return. The returns for 2001 through 2003 were all submitted past the three year statute for receiving a refund. Therefore, no credit or refund is allowed for those years. The statute of limitations for the 2004 return, however, was tolled by the Notice of Deficiency Determination and its subsequent protest. (See Idaho Code section 63-3072(i).) As a result, the claim for refund on the taxpayer's 2004 return is available for credit or refund.

The taxpayer's return for 2005 resulted in the taxpayer owing tax to the state of Idaho. Since the taxpayer was delinquent in filing his 2005 return, the Tax Commission finds that the delinquency penalty and interest should be added to the taxpayer's tax liability. (See Idaho Code sections 63-3045 and 63-3046.)

WHEREFORE, the Notice of Deficiency Determination dated July 27, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$ 0	\$ 0	\$ 0	\$ 0
2002	0	0	0	0
2003	0	0	0	0
2004	(183)	0	0	(183)
2005	275	69	51	<u>395</u>
			TOTAL DUE	<u>\$212</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer'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.
