

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20444
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On April 10, 2007 the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income tax, penalty, and interest for taxable years 2003, 2004, and 2005 in the total amount of \$24,498.

The taxpayer protested the determination and subsequently submitted an Idaho Individual income tax return for tax year 2003. The return was accepted as filed, and the NODD was cancelled for that year. On November 30, 2007, the 2004 Idaho income tax return was received by the Commission. Tax years 2003 and 2004 will not be addressed further in this decision. No information was submitted for tax year 2005. The Commission, having reviewed the file, hereby issues its decision regarding tax year 2005. The taxpayer failed to file his 2005 individual income tax return. Because Commission records show the taxpayer met the state income tax filing requirements and had not filed his Idaho income tax return for 2005, the Bureau attempted to contact him for clarification. The taxpayer did not respond.

[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.

The Bureau prepared the missing Idaho returns on behalf of the taxpayer and sent him an NODD. The taxpayer, through his accountant, appealed the NODD. The accountant requested additional time to complete the returns which was granted by the Bureau. Completion dates of July 20, 2007, and September 20, 2007, for tax years 2004 and 2005, respectively, were given by the accountant. When the returns were not received, the file was transferred to the Legal/Tax Policy Division for administrative review.

The taxpayer responded by phone to a letter from the Tax Policy Specialist that outlined his appeal rights. The taxpayer did not request a hearing. He instead asked for another extension of time to complete the returns. The policy specialist gave him a firm date of November 30, 2007, for the completion of the 2004 income tax return. The 2004 return was received by that date, accompanied by a note from the taxpayer stating the 2005 return should be completed no later than May 15, 2008. Two subsequent phone conversations took place between the taxpayer and the policy specialist, and two subsequent extensions were granted. To date, the 2005 income tax return has not been received. The time has come for the Commission to decide this matter.

The i[Redacted]. The Commission issued an NODD to the taxpayer on April 10, 2007, [Redacted] and that found in Commission records.

The Idaho individual income tax return the Bureau prepared on behalf of the taxpayer was based on income information gleaned from the taxpayers' [Redacted] records and the records retained by the Commission. The taxpayers' withholding of \$12,355 was allowed to

offset a portion of the Idaho income tax due. 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 tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer has provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for tax year 2005.

WHEREFORE, the Notice of Deficiency Determination dated April 10, 2007, is hereby MODIFIED, APPROVED, 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>
2005	\$3278	\$820	\$580	\$4,678

Interest is computed through November 30, 2008.

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.
