

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20497A
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On July 6, 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 the taxable years 2002 through 2004 in the total amount of \$15,417.

On August 30, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has not provided any further information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) found while researching the Tax Commission's records that the taxpayer stopped filing Idaho individual income tax returns after filing a return for the tax year 2001. The Bureau sent the taxpayer a letter asking him if he had a filing requirement with Idaho for the tax years 2002 through 2004. The taxpayer did not respond to the Bureau's letter. [Redacted]. The Bureau prepared income tax returns for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. He provided copies of his 2003 and 2004 returns and stated he was sure he filed Idaho income tax returns for all the years. The taxpayer stated he was looking for his 2002 return but was unsure if he had a copy because he generally only kept his returns back three years. He stated that during those years, he worked

outside of Idaho and his mother handled all his finances and tax related matters. He stated his mother was unable to locate any evidence of payment but she remembers paying his taxes with money orders.

The Bureau reviewed the information and the returns the taxpayer provided and decided to accept the taxpayer's 2003 and 2004 income tax returns. The Bureau made further requests for the 2002 return, but the taxpayer was only able to come up with a comparison worksheet of his 2002 and 2003 taxes. Since the taxpayer did not provide a copy of his 2002 return and he did not withdraw his protest, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not respond. The Tax Commission sent a follow-up letter to the taxpayer but still the taxpayer failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayer did not contest that he was a resident of Idaho and was required to file Idaho individual income tax returns. He stated that he believed the returns were filed. However, Tax Commission records show no record of the taxpayer filing an income tax return after 2001. The taxpayer did provide copies of his 2003 and 2004 Idaho income tax returns. The Tax Commission agrees with the Bureau that these returns should be accepted in lieu of the returns prepared by the Bureau. Since the taxpayer provided these returns, they are considered self-assessed returns and are hereby removed from the Notice of Deficiency Determination. These returns will be subject to the normal review process and subject to the three-year statute of limitations for amendment or examination beginning on the date the returns were submitted to the Tax Commission.

As for the taxpayer's 2002 return, the taxpayer has not provided anything to show the Bureau's determination was incorrect. In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer has not met his burden. Therefore, absent any information to the contrary the Tax Commission finds the 2002 return, prepared by the Bureau for the taxpayer, a reasonable representation of the taxpayer's Idaho taxable income.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated July 6, 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>
2002	\$3,064	\$766	\$1,009	\$4,839

Interest is computed to August 15, 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.
