

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20509
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On July 5, 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 1998 through 2005 in the total amount of \$29,568.

On September 4, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to submit income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that showed the taxpayer received wages for working in Idaho during the years 1998 through 2005. The Bureau researched the Tax Commission's records and found that the taxpayer did not file Idaho individual income tax returns for those years. The Bureau sent the taxpayer a letter asking him about his requirement to file Idaho income tax returns. The taxpayer did not respond. [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 stated he was appealing the Notice of Deficiency Determination not because he was not required to file Idaho income tax returns, but because he had expenses that needed to be included to arrive at his appropriate

taxable income. The taxpayer stated he had representation and that his information was being processed and the returns prepared. This was the last correspondence the Bureau received from the taxpayer.

Since the taxpayer did not provide the necessary income tax returns or any other additional information, the Bureau referred the matter for administrative review. The Tax Commission reviewed the matter and sent the taxpayer a letter discussing the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer responded to the Tax Commission's letter stating that he had compiled about 75 percent of the information needed to complete his income tax returns. He stated it was taking a lot of time getting his information together due to the amount of information required to verify his travel expenses. The taxpayer estimated that he would have all the returns completed by March 31, 2008.

The Tax Commission agreed to the additional time the taxpayer requested and waited for the income tax returns to be provided. However, the returns were not provided by March 31, 2008, so the Tax Commission sent the taxpayer another letter giving him a final date for submitting his income tax returns. That date also came and went with no response from the taxpayer and no returns provided. The Tax Commission, believing the taxpayer has had more than an adequate amount of time to prepare and submit his income tax returns, decided this matter based on the information available.

The taxpayer does not dispute he was required to file Idaho income tax returns for the years 1998 through 2005. He also apparently does not dispute the amount of income the Bureau determined he received in each of those years. The only issue the taxpayer argued was that he had expenses that could be used to offset his income. Whether and to what extent deductions shall be allowed depends upon legislative grace; and only as there is clear provision therefor can any

particular deduction be allowed. Obviously, therefore, a taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms. New Colonial Ice Co., Inc. v. Helvering, 292 US. 435, 54 S.Ct. 788 (1934). The burden rests upon the taxpayer to disclose his receipts and claim his proper deductions. United States v. Ballard, 535 F.2d 400 (1976). The taxpayer bears the burden of proving that he is entitled to the deduction. Higgins v. C.I.R., T. C. Memo. 1984-330 (1984). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931).

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 failed to meet his burden. The Tax Commission reviewed the returns the Bureau prepared and found that they are an accurate representation of the taxpayer's taxable income based upon the information available. Therefore, the Tax Commission upholds the Bureau's determination of the taxpayer's taxable income for 1998 through 2005.

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 5, 2007, is hereby 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>
1998	\$2,143	\$536	\$1,343	\$ 4,022

1999	2,704	676	1,497	4,877
2000	2,738	685	1,297	4,720
2001	2,642	661	1,048	4,351
2002	1,657	414	551	2,622
2003	1,464	366	409	2,239
2004	2,565	641	563	3,769
2005	3,033	758	484	<u>4,275</u>
			TOTAL DUE	<u>\$30,875</u>

Interest is computed to August 31, 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.
