

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

In the Matter of the Protest of )  
 ) DOCKET NO. 20778  
[REDACTED], )  
 ) DECISION  
 )  
Petitioner. )  
 )  
\_\_\_\_\_ )

On October 2, 2007, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing income tax, penalty, and interest for the taxable years 2003, 2004, and 2005 in the total amount of \$9,004.

A timely protest and petition for redetermination was filed by the petitioner. An informal hearing has not been requested by the petitioner. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner failed to file her 2003, 2004, and 2005 individual income tax returns. On April 23, 2007, the TDB sent a letter with a questionnaire to the petitioner to help the Commission properly determine the petitioner's filing requirement. The petitioner responded requesting additional time to send in her income tax returns.

In a letter dated June 13, 2007, the petitioner stated she would be out of state and unable to retrieve any copies of her returns but her accountant would send in the returns. The petitioner also enclosed copies of prior tax liens unrelated to the 2003 through 2005 tax years in question. The petitioner had been making payments to the Commission's collections department for tax years 1998 through 2002 and paid them off in 2003, 2004, and 2005. The petitioner mistakenly believed these payments were for the missing tax years.

A letter dated August 3, 2007, was sent to the petitioner stating if the TDB did not receive her returns by September 7, 2007, an NOD would be issued. No response was received from the petitioner. The TDB obtained income information [Redacted]. The Commission issued an NOD to the petitioner on October 2, 2007, [Redacted].

In the petitioner's protest letter received by fax on December 3, 2007, she stated:

I am writing in reference to the determination of amount owing. I would like to have the files reviewed by an account [sic] or meet with a representative, as there are deductions that are not recorded. I would also like to make payment arrangements.

The TDB sent the petitioner a letter dated December 3, 2007, which requested she send her 2003 through 2005 Idaho individual income tax returns by January 18, 2008. The petitioner did not respond to this letter. If the petitioner's issues could not be resolved in the TDB, her file would be transferred to the Commission's Legal/Tax Policy division for further review.

The petitioner sent a letter dated January 16, 2008, in which she requested an additional 30 days to have her tax records reviewed.

In a letter dated January 22, 2008, the TDB granted an extension to file to the petitioner. The new deadline was February 29, 2008.

On March 18, 2008, and May 19, 2008, the Tax Policy Specialist (policy specialist) sent the petitioner a letter to inform her of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioner on June 20, 2008. The petitioner did not respond to either letter.

It is well settled in Idaho that an NOD issued by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioner to show that the tax deficiency is erroneous. Id. Since the petitioner has failed to meet the burden in this case, the Tax Commission finds that the amount shown due

on the Notice of Deficiency Determination is true and correct.

[Redacted] The petitioner has not provided the Commission with a contrary result to the determination of her income [Redacted] Therefore, the Commission must uphold the deficiency.

WHEREFORE, the Notice of Deficiency Determination dated October 2, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$1,812	\$453	\$561	\$2,826
2004	2,150	538	536	3,224
2005	2,412	603	455	<u>3,470</u>
			TOTAL DUE	<u>\$9,520</u>

Interest is computed through February 14, 2009, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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.

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.

---