

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21083
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On February 4, 2008, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income taxes, penalties, and interest for tax years 2003 through 2006 in the total amount of \$54,185.

On April 9, 2008, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did respond to the Tax Commission's hearing rights letter but did not request a hearing or provide any additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

When the Bureau could not find any record of the taxpayer's 2003 through 2006 Idaho individual income tax returns, the taxpayer was sent a letter advising him of the missing returns and asking him for an explanation. The taxpayer did not respond.

The Bureau requested and received income information from [Redacted].

In an attempt to determine whether the taxpayer met the minimum filing amount set out in Idaho Code § 63-3030(a), the Tax Commission's Tax Discovery Bureau summoned from [Redacted] a copy of an automobile loan application filed by the taxpayer on December 13, 2002. On that loan application, the taxpayer claimed that he was the owner of [Redacted] and indicated that he received salary or wages from [Redacted] in the amount of \$270,000 for tax year 2002. The taxpayer received several 1099-Misc forms in tax years 2003-2006 issued in the

name of [Redacted] indicating that the business was still operating. Based on this information, the Tax Discovery Bureau determined that the taxpayer met the requirement to file Idaho individual income tax returns. Because the taxpayer did not file individual income tax returns, the Bureau prepared returns on his behalf and issued a Notice of Deficiency Determination (NODD).

The taxpayer protested the NODD. In his protest, the taxpayer simply stated the deficiency was incorrect because he did not make that much money. He also stated that he intended to have an accountant determine what, if any, income tax was due. The taxpayer did provide a Power of Attorney (POA) form indicating that an accountant had been retained to prepare returns. However, to date, no returns have been received.

The Bureau referred the matter for administrative review. The Tax Commission sent the POA a letter discussing the methods available for redetermining the NODD. The POA responded stating that she had not heard from the taxpayer in months and that he has not provided her with the necessary documentation to prepare the returns. The Tax Commission sent a letter to the taxpayer asking if it was still his intent to use the services of his appointed POA. The taxpayer responded in the affirmative and stated he would discuss the issue with her promptly. However, to date, no returns have been received or any additional information provided. The Tax Commission, believing the taxpayer has had an adequate amount of time to submit returns, decided the matter based upon the information available.

Because the taxpayer is self-employed and did not file federal income tax returns, income information for the years in question was sporadic and inconsistent. Therefore, the Bureau used an estimate to determine the taxpayer's income. The taxpayer filed a return in 2002 reporting gross receipts for his business of \$147,941. The auto loan submitted by the taxpayer for the

same year states wages earned of \$270,000. The Bureau determined, based on the information the taxpayer provided a lending institution and his filed return, that \$135,000 in income per year was a reasonable and fairly accurate representation of his taxable income.

In Idaho, it is well established that a Tax Commission's deficiency notice is presumed correct and the taxpayer bears the burden of showing that it 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); Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The taxpayer has not met his burden.

The taxpayer has provided nothing that would dissuade the Tax Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for tax years 2003 through 2006. Therefore, the Tax Commission upholds the Bureau's determination 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, respectively.

WHEREFORE, the Notice of Deficiency Determination dated February 4, 2008, is hereby APPROVED, AFFIRMED, and MADE FINAL.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$9,633	\$2,408	\$2,958	\$14,999
2004	9,615	2,404	2,376	14,395
2005	9,588	2,397	1,794	13,779
2006	9,588	2,390	1,191	<u>13,169</u>
			TOTAL DUE	<u>\$56,342</u>

Interest is calculated through February 1, 2009.

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.
