

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 21316  
 )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

On September 26, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income tax, penalty, and interest for tax years 1999 through 2005 in the total amount of \$138,527.

The taxpayer protested the determination and, subsequently submitted Idaho Individual income tax returns for tax years 1999 and 2000. Those returns were accepted as filed, and the NODD was cancelled for those years. No information was submitted for tax years 2001 through 2005. The Tax Commission, having reviewed the file, hereby issues its decision regarding tax years 2001 through 2005.

When the Bureau could not find any record of the taxpayer's 1999 through 2005 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.

[Redacted]

Idaho Code § 63-3045 (1)(a) states:

**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.

[Redacted] The Bureau sent the taxpayer a letter to acknowledge his protest. He was allowed a continuance. The Idaho income tax return for tax year 2000 was received on January 10, 2008, and the return for tax year 1999, was received on March 13, 2008. Numerous additional requests were made by the Bureau for the 2001 through 2005 income tax returns, but when they did not arrive as promised, the file was transferred to the Legal/Tax Policy Division of the Tax Commission for administrative review.

The taxpayer was sent a letter advising him of his appeal rights. The taxpayer did not respond to the appeal rights letter. A follow-up letter was also sent, but the taxpayer did not respond. 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 Idaho resident individual income tax returns the Bureau prepared on behalf of the taxpayer were based on income information gleaned from the taxpayer's federal income records

and the records retained by the Tax Commission. The filing status of single was used to determine the taxpayer's Idaho income tax responsibility.

The Tax Commission's information shows the taxpayer has an active sales/use tax permit under the name of [Redacted] during the periods in question. Sales/use tax reports submitted by the taxpayer were used to estimate the income and resulting tax due. Because the taxpayer also has an active withholding account for [Redacted] and had submitted the reconciliation returns timely, an expense for payroll was allowed to offset income.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of his argument, the taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

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 2001 through 2005. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated September 26, 2007, is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u>  |
|-------------|------------|----------------|-----------------|---------------|
| 2001        | \$13,147   | \$3,287        | \$5,546         | \$21,980      |
| 2002        | 11,706     | 2,927          | 4,187           | 18,820        |
| 2003        | 14,012     | 3,503          | 4,271           | 21,786        |
| 2004        | 11,311     | 2,828          | 2,769           | 16,908        |
| 2005        | 11,797     | 2,949          | 2,180           | <u>16,926</u> |
|             |            |                | TOTAL DUE       | \$96,420      |

Interest is calculated through January 15, 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.

\_\_\_\_\_