

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20194
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On March 22, 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 \$49,525.

On May 11, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather stated he would provide 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 that showed the taxpayer received miscellaneous income in 2003. The Bureau reviewed the Tax Commission's records and found that the taxpayer had not filed Idaho individual income tax returns since at least 1998. The Bureau sent the taxpayer a letter asking him about his requirement to file Idaho income tax returns for the taxable years 1998 through 2005. The taxpayer did not respond. The Bureau obtained additional information from the [Redacted] and determined the taxpayer was required to file Idaho income tax returns for all the years. The Bureau prepared income tax returns for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination stating the tax deficiency is incorrect. He stated he was assembling his tax records to take to his accountant. The taxpayer stated he

needed additional time for his accountant to prepare his income tax returns. He stated his returns would be forwarded to the Tax Commission upon completion.

The Bureau acknowledged the taxpayer's protest and allowed him additional time to provide his income tax returns. However, when the taxpayer failed to provide his returns or even respond to the Bureau's letters, the Bureau referred the matter for administrative review.

The Tax Commission 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 which the taxpayer responded, through his representative, that three of the years were complete but additional information was needed for the other years. The taxpayer's representative stated all the returns should be completed by January 1, 2008.

The first of the year came and went without the taxpayer providing any returns or making any contact with the Tax Commission. The Tax Commission contacted the taxpayer's representative who stated he was not able to get to the taxpayer's returns. He also stated he would let the Tax Commission know how much more time he needed to complete the returns. The taxpayer's representative did not contact the Tax Commission, and when the Tax Commission contacted him, he stated he was too busy with the current year's filings to complete the taxpayer's prior year returns. The Tax Commission agreed to wait until after the current year's tax drive for the taxpayer to provide his returns.

After the tax drive, the Tax Commission contacted the taxpayer and/or his representative several times. When the Tax Commission was able to speak to the taxpayer's representative, he stated he had the information to prepare the returns; he just had not gotten to them. The Tax Commission extended the time to submit the returns until August 15, 2008. A few days before

August 15, 2008, the taxpayer's representative contacted the Tax Commission and said he would have four returns to the Tax Commission by August 15, 2008, with the balance of the returns to the Tax Commission by September 30, 2008. The Tax Commission agreed to postpone any action on the matter. A few days later, the Tax Commission received income tax returns for the years 1997 through 2000. However, no other returns were received before or after September 30, 2008.

The Tax Commission, believing the taxpayer has had more than enough time to prepare and submit his Idaho individual income tax returns, hereby makes its decision on the matter based upon the information available.

The taxpayer has never contended he was not required to file Idaho income tax returns for the years in question. Therefore, based upon the income information obtained by the Bureau and the taxpayer's lack of contention, the Tax Commission finds that the taxpayer was required to file Idaho income tax returns for the tax years 1998 through 2005. The taxpayer's only argument was that the Bureau's determination was incorrect. He did not specify where the determination was incorrect; he was going to provide correct income tax returns.

The taxpayer did provide returns for the tax years 1998 through 2000. The Tax Commission reviewed those returns and found them to be a better representation of the taxpayer's taxable income for those years. Therefore, the Tax Commission accepts the taxpayer's 1998 through 2000 returns, subject to the Tax Commission's normal review process, in lieu of the 1998 through 2000 returns prepared by the Bureau. However, for the tax years 2001 through 2005, the taxpayer did not provide any returns. The taxpayer also failed to show that the 2001 through 2005 returns prepared by the Bureau were 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 did not meet his burden with regards to the 2001 through 2005 tax years. Therefore, the Tax Commission finds the income tax returns, prepared by the Bureau, for the taxable years 2001 through 2005 are a reasonable representation of the taxpayer's Idaho taxable income. The Tax Commission therefore upholds the Bureau's determination for the taxable years 2001 through 2005.

The Bureau added interest and penalty to the taxpayer's Idaho tax deficiency. 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 March 22, 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 (interest is computed to March 1, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$ 25	\$ 10	\$ 16	\$ 51
1999	6	10	4	20
2000	1,489	372	752	2,613
2001	4,065	1,016	1,740	6,821
2002	3,579	895	1,302	5,776
2003	3,110	778	967	4,855
2004	1,928	482	484	2,894
2005	2,825	706	540	<u>4,071</u>
			TOTAL DUE	<u>\$27,101</u>

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 \_\_\_\_\_, 2009.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, 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.  
  
\_\_\_\_\_