

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20676
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On August 15, 2007, the Idaho State Tax Commission’s (Commission) Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for the taxable years 1999, 2000, 2001, 2002, 2003, 2004, and 2005 in the total amount of \$18,435. The petitioner filed a timely petition for redetermination. The petitioner was informed of his appeal rights in a letter dated December 31, 2008, and again on March 2, 2009. In addition to informing the petitioner of his appeal rights, a modified audit report was sent to the petitioner modifying the amount sought from \$18,435 to \$2,979. The Commission, having reviewed the file, hereby issues its decision.

Based upon information available to the Commission, the TDB determined that the petitioner may have had an Idaho filing requirement for taxable years 1999 through 2005. The TDB initiated contact with the petitioner in June 2007, requesting the petitioner file an Idaho income tax return for taxable years 1999 through 2005 or, in the alternative, explain why the petitioner would not have an Idaho filing requirement.

Since the petitioner did not respond to the TDB’s inquiry, the TDB issued an NODD on August 17, 2007. The petitioner filed his petition for redetermination in October 2007. In his petition, the petitioner did not dispute that he had an Idaho filing requirement for the years in question. Instead, he indicated that it was his intent to file the requested returns through the assistance of an accountant.

After the petitioner's filing of his petition for redetermination, the TDB continued with its efforts to convince the petitioner to file the returns. In December 2007, the petitioner provided the Commission with a copy of federal income tax returns for taxable years 1999 through 2003 but did not provide the Commission with the corresponding Idaho income tax returns. The TDB, unsuccessful in its attempts to acquire the returns, forwarded the petitioner's petition for redetermination to the Commission's Policy and Legal department for resolution. On December 31, 2008, the petitioner was sent a letter informing him of his appeal rights. On March 2, 2009, a second hearing rights letter was sent along with a modified audit report reducing the amount sought from \$18,435 to \$2,979. The modification was based upon [Redacted] and the best available information available to the Commission for taxable years 2004 and 2005. As a result of said information, taxable years 1999 through 2001 resulted in small refunds of excess withholdings. However, since the time period in which to file a refund claim for excess withholdings under Idaho Code § 63-3072(c) for the three taxable years had expired prior to the filing of the petitioner's protest in October 2007, the petitioner is not entitled to a refund of excess withholdings for these three years.

As of the date of this decision, the petitioner has not provided any additional information that would resolve this case in the petitioner's favor for taxable years 1999 through 2005. Having presented no information in support of his argument, the petitioner 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, 814, (1984); Parsons v. Idaho State Tax Comm'n, 110 Idaho 572, 574 (Ct. App. 1986). Since the petitioner has not met this burden of proof of showing that the Notice of Deficiency Determination, as subsequently modified, is incorrect, the Commission upholds the TDB's determination for the taxable years 1999 through 2005.

WHEREFORE, the Notice of Deficiency Determination dated August 15, 2007, as modified by the subsequent aforementioned audit report, is hereby MODIFIED, 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>
1999	(\$128)	\$0	\$0	(\$128)
2000	(35)	0	0	(35)
2001	(582)	0	0	(582)
2002	1,205	301	464	1,970
2003	456	114	150	720
2004	(277)			(277)
2005	401	100	85	586
Out of state refunds (1999 thru 2001)				<u>745</u>
			TOTAL DUE	<u>\$2,999</u>

Interest for taxable years 2002, 2003, and 2005, is calculated through July 31, 2009, and will continue to accrue at the rate set forth in Idaho Code § 63-3045.

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 _____, 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.
