

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20939
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On December 5, 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 1999 through 2002 in the total amount of \$135,893.

On February 6, 2008, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission’s hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer was referred to the Tax Discovery Bureau (Bureau) by the Tax Commission’s collections staff. The taxpayer was, at the time, working with the collections staff on another tax issue. The Bureau reviewed the Tax Commission’s records and found that the taxpayer had not filed Idaho individual income tax returns since at least 1999. The Bureau sent the taxpayer a letter asking about his requirement to file Idaho income tax returns for the tax years 1999 through 2006. The taxpayer responded by filing a 2003 return filed jointly with [Redacted]. The Bureau made further attempts to contact the taxpayer but received no response. The Bureau determined, through the Tax Commission’s sales tax records, that the taxpayer was required to file Idaho income tax returns for the other years, so it prepared returns for the taxable years 1999 through 2002 and sent the taxpayer a Notice of Deficiency Determination. The

Bureau included only the 1999 through 2002 tax years in this determination because of a potential change of filing status for the 2004 through 2006 tax years.

The taxpayer protested the Bureau's determination. He agreed that he needed to file income tax returns for all the years in question and probably owed tax; however, the returns prepared by the Bureau did not take into account any expenses incurred to obtain the income reported. The taxpayer stated he was in the process of completing the delinquent tax forms that would show his correct tax liability. He asked for the opportunity to complete his forms and get them filed. He stated he was willing to work with the Tax Commission to finish filing the other years.

The Bureau acknowledged the taxpayer's protest and allowed the taxpayer additional time to provide his income tax returns. However, when the taxpayer failed to provide his returns and failed to stay in contact with the Bureau, 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 to the Tax Commission's letter, so a follow-up letter was sent to the taxpayer. Still, the taxpayer failed to respond. Therefore, believing the taxpayer had ample time to prepare and submit his Idaho individual income tax returns, and because he has not contacted the Tax Commission regarding this matter, the Tax Commission decided the matter based upon the information available.

The taxpayer stated he was required to file Idaho income tax returns for the years in question. His only argument was that the Bureau did not allow any expenses that were incurred to generate his income. The taxpayer stated he would provide income tax returns to show his

correct tax liability and, therefore, his offsetting expenses. However, no returns were ever provided.

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. The taxpayer stated that the Bureau did not account for the expenses incurred. However, it is the taxpayer's responsibility, and the burden rests upon him to disclose his receipts and claim his proper deductions. United States v. Ballard, 535 F.2d 400 (1976). The Tax Commission recognizes that the taxpayer may have had business expenses to offset his income; yet, if a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Since the taxpayer failed to meet this burden, the Tax Commission finds the income tax returns prepared by the Bureau for the taxable years 1999 through 2002 are a reasonable representation of the taxpayer's Idaho taxable income based upon the information available. Therefore, the Tax Commission upholds the Bureau's determination of the taxpayer's taxable income.

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 December 5, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest (computed to April 15, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$21,226	\$5,307	\$12,553	\$ 39,086
2000	16,813	4,203	8,598	29,614
2001	18,819	4,705	8,169	31,693
2002	25,786	6,447	9,541	41,774
			TOTAL DUE	<u>\$142,167</u>

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.
