

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21198
[Redacted],)	
)	DECISION
Petitioner.)	
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On April 10, 2008, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing income tax, penalty, and interest for the taxable years 2003, 2004, 2005, and 2006 in the total amount of \$14,273.

A timely protest and petition for redetermination was filed by the petitioner. An informal hearing has not been requested by the petitioner. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner failed to file his 2003, 2004, 2005, and 2006 individual income tax returns. On January 11, 2008, the TDB sent a letter with a questionnaire to the petitioner notifying him of the missing returns and requesting he complete and return the questionnaire. The petitioner returned the questionnaire and indicated he was required to file income tax returns in Idaho.

In a letter dated February 22, 2008, the TDB directed the petitioner to the Commission's website for forms. The petitioner did not file his tax returns.

[Redacted]. The Commission issued an NOD to the petitioner on April 10, 2008, [Redacted].

In the petitioner's protest letter dated June 2, 2008, he stated:

Please accept this letter as a written petition for redetermination. I am currently in the process of preparing the tax returns for the years referenced in the letter. The tax computations were based on income PRIOR to the deductions allowed for my business. I am a self-employed [Redacted]. Thank you for your consideration.

The TDB sent the petitioner a letter dated June 12, 2008, which stated that the TDB would retain the petitioner's file while they awaited the information the petitioner had yet to provide. The TDB requested the petitioner provide the information by July 21, 2008. The TDB also informed the petitioner that if his issues could not be resolved in the TDB, his file would be transferred to the Commission's Legal/Tax Policy division for further review. The petitioner did not respond to this letter.

The TDB sent the petitioner a letter dated September 4, 2008, reminding him that he stated he was in the process of having his returns prepared. The TDB stated that they preferred the petitioner file his tax returns as he had promised. The TDB stated that they did not have knowledge of the petitioner's business expenses that he may have incurred in his business and were unable to make adjustments to the petitioner's NOD for that reason. The TDB again requested that the petitioner send in his returns.

On November 7, 2008, the tax policy specialist (policy specialist) sent the petitioner a letter informing him of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioner on December 30, 2008.

In a letter from the petitioner dated January 6, 2009, he stated that he would have his returns to the Commission by February 15, 2009. As of the date of this decision, the petitioner has not provided the returns in question.

It is well settled in Idaho that a NOD issued by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioner to show that the tax deficiency is erroneous. Id. Since the petitioner has failed to meet the burden in this case, the Commission finds that the amount shown due on

the NOD is true and correct.

[Redacted] The petitioner has not provided the Commission with a contrary result to the determination of his income [Redacted] Therefore, the Commission must uphold the deficiency.

WHEREFORE, the Notice of Deficiency Determination dated April 10, 2008, is hereby APPROVED, 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>
2003	\$ 437	\$ 109	\$144	\$ 690
2004	1,704	426	456	2,586
2005	3,435	859	711	5,005
2006	4,766	1,192	688	<u>6,646</u>
			TOTAL DUE	<u>\$14,927</u>

Interest is computed through June 27, 2009, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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.
