

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 21221
)
) DECISION
Petitioner.)
_____)

On May 8, 2008, 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 2001 and 2003 through 2006 in the total amount of \$67,350.

On June 14, 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 Tax Discovery Bureau (Bureau) received information [Redacted] that showed the taxpayer received wages for work performed in Idaho. The Bureau researched the Tax Commission’s records and found that the taxpayer stopped filing Idaho individual income tax returns after filing his 1998 income tax return. The taxpayer filed a 2002 Idaho income tax return but has not filed any subsequent year’s returns since that filing. The Bureau sent the taxpayer a letter reminding him of his requirement to file Idaho income tax returns. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer was required to file Idaho individual income tax returns for the taxable years 1999, 2000, 2001, 2003, 2004, 2005, and 2006. The Bureau prepared income tax returns for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer stated the Bureau's tax computations were totally wrong. He stated the Bureau based his income amounts on the gross sales of stocks and did not take into account the purchase price of the stocks. The taxpayer stated he lost money in each of the years in question. He stated his costs were more than his sales. The taxpayer stated he needed to contact his brokers to get the information on the purchases and sales of the stocks. He stated that after he got the information [Redacted] he would hire a tax preparer so he could file the necessary returns.

The Bureau allowed the taxpayer additional time to gather his information and to prepare his income tax returns. After several months, a couple of letters, and no returns from the taxpayer, the Bureau decided the matter should be referred for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter discussing the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer failed to respond to the Tax Commission's letter, so a follow-up letter was sent to the taxpayer. The taxpayer still failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayer received income in all the years in question. The amounts received were in excess of the filing threshold provided in Idaho Code section 63-3030. The taxpayer did not contest his receipt of income or his requirement to file Idaho income tax returns. The taxpayer is contesting the total income the Bureau determined for each year.

The Bureau used information it obtained [Redacted]. The [Redacted] reported wages from various employers for each of the years. The [Redacted] reported unemployment compensation, dividend income, interest income, and 1099 income from the sales of stocks and

bonds. The taxpayer's point of contention is that the Bureau only accounted for one side of the transaction on the sales of stock. The Bureau did not allow the taxpayer his basis in the stock.

Deductions are a matter of legislative grace and the taxpayer must show that the deduction comes under the terms of a particular statute. New Colonial Ice Co., Inc. v. Helvering, 292 US. 435, 54 S.Ct. 788 (1934). The burden rests on taxpayer to disclose his receipts and claim his proper deductions. United States v. Ballard, 535 F.2d 400 (1976); and Higgins v. C.I.R., T. C. Memo. 1984-330 (1984). 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).

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 Tax Commission recognizes the taxpayer had a basis in the stock whether he purchased it, inherited it, or it was gifted to him. The taxpayer also stated he lost about \$5,000 each year from his stock trading. This may be the case; however, without documented evidence the Tax Commission has no way of knowing whether the taxpayer sustained a gain or loss on the sales. Therefore, the Tax Commission is holding to the only known fact, the sales price of the stock, and the taxpayer must bear the burden of not providing adequate documentation.

WHEREFORE, the Notice of Deficiency Determination dated May 8, 2008, 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 October 1, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$6,537	\$1,634	\$4,017	\$12,188
2000	9,114	2,279	4,871	16,264
2001	3,214	804	1,470	5,488
2003	2,123	531	722	3,376
2004	13,126	3,282	3,679	20,087
2005	4,937	1,234	1,088	7,259
2006	4,048	1,012	637	<u>5,697</u>
			TOTAL DUE	<u>\$70,359</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.
