

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21281
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On May 9, 2008, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income tax, penalty, and interest for taxable years 2001 through 2006 in the total amount of \$20,117.

The taxpayer filed a timely appeal. He did not request a hearing. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Tax Commission records show the taxpayer was an Idaho resident who appeared to meet the Idaho individual income tax filing requirements. The Bureau attempted to contact the taxpayer for an explanation of why his 2001 through 2006 Idaho individual income tax returns had not been filed, but he did not respond to the inquiries.

[Redacted].

Idaho Code § 63-3045 (1) (a) states:

Notice of redetermination or deficiency -- Interest. (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an

explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

The Bureau prepared the missing Idaho returns on behalf of the taxpayer and sent him an NODD. [Redacted].

The taxpayer protested the Bureau's determination. In his protest, the taxpayer did not dispute the fact that he had a filing requirement, but requested additional time in which to complete the returns. He also stated that he was requesting an audit reconsideration as the NODD did not allow deductions.

The taxpayer was allowed additional time. When the taxpayer did not deliver the returns to the Tax Commission after the allowed time, his file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter advising him of his appeal rights. A follow-up letter was also sent by the policy specialist with no response.

[Redacted].

The Tax Commission's information shows the taxpayer had an active sales/use tax permit under the name of [Redacted] during the periods in question, and the Tax Commission recognizes that the taxpayer may have had business expenses to offset his income. However, if the taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and the 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 adjusted gross income amount for taxable years 2001 through 2006, as prepared by the Bureau, is a reasonable representation of the taxpayer's Idaho adjusted gross income based upon the information available. The interest and penalty added by the Bureau

pursuant to Idaho Code §§ 63-3045 and 63-3046 was reviewed and found to be proper and in accordance with Idaho Code.

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). A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show the deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer failed to file his 2001 through 2006 Idaho individual income tax returns. Having presented no information in support of his argument, the taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Absent information to the contrary, the Tax Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for those years.

WHEREFORE, the Notice of Deficiency Determination dated May 9, 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:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$1,903	\$476	\$864	\$ 3,234
2002	1,887	472	735	3,094
2003	1,766	442	594	2,802
2004	2,586	647	716	3,949
2005	2,374	594	515	3,483
2006	3,171	793	488	<u>4,452</u>
			TOTAL DUE	<u>\$21,014</u>

Interest is calculated through September 4, 2009.

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.