

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 21310
[REDACTED],)
) DECISION
)
Petitioner.)
)
_____)

On May 20, 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 2002, 2003, 2004, 2005, and 2006 in the total amount of \$9,542.

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 2002, 2003, 2004, 2005, and 2006 individual income tax returns. On December 10, 2007, and February 26, 2008, the TDB sent a letter to the petitioner notifying him of the missing returns. The petitioner did not respond to this letter. I [Redacted]. The Commission issued an NOD to the petitioner on May 20, 2008, [Redacted].

In the petitioner's protest letter received on July 22, 2008, he stated:

I would like to request more time to review the totals for the income tax I owe. I do not dispute that I owe the state and realize they need to be dealt with, but I need time to determine whether this is the proper amount or not. In the meantime I see no reason why we can't move forward with discussing some arrangement to begin satisfying this debt. May I contact you directly by phone to discuss this matter?

The TDB sent the petitioner a letter dated July 23, 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 August 25, 2008. The petitioner did not

respond to this letter. If the petitioner's issues could not be resolved in the TDB, his file would be transferred to the Commission's Legal/Tax Policy division for further review.

On December 22, 2008, the tax specialist (TS) sent the petitioner a letter which stated that the petitioner had indicated in previous correspondence that he was required to file Idaho tax returns for the above referenced years. To date, the TS had not received the petitioner's returns. The TS stated that during a phone conversation on August 26, 2008, it was decided that the petitioner would be sending the 2006-2007 Idaho individual income tax returns and a payment by mid September. The TS stated that they also discussed getting the remaining missing returns sent in one each month until all were received. To date, no returns or payments have been received. The TS stated that the petitioner would find a protest withdrawal letter enclosed and requested he check the appropriate response and return the letter, or he might provide his completed Idaho individual income tax returns along with copies of his federal returns and all corresponding schedules. The TS stated that if the petitioner did not respond by January 21, 2009, his case would be sent to the Commission's legal department. The TS requested the petitioner forward any correspondence within 30 days from the date of the letter. The petitioner did not respond to this letter.

In the petitioner's letter received by e-mail on January 21, 2009, he stated:

My apologies for the late response, right now I'm emailing you from the airport in Seattle.

I have procrastinated. Sales have been hard to come by lately and I've spent a good deal of time on the road.

If you could give me to February 4th I will have those returns on your desk by that date.

We finally were able to get the W2 info we needed together last weekend. If need be, I can take the time off work and have them to you by the end of the month. Is that acceptable?

On March 18, 2009, the tax policy specialist (policy specialist) sent the petitioner a letter to inform him of the alternatives for redetermining a protested NOD. The petitioner did not respond to this letter.

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 Tax Commission finds that the amount shown due on the Notice of Deficiency Determination 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 May 20, 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>
2002	\$ 115	\$ 29	\$ 47	\$ 191
2003	1,675	19	590	2,284
2004	1,916	479	558	2,953
2005	871	218	201	1,290
2006	2,075	519	349	<u>2,943</u>
			TOTAL DUE	<u>\$9,661</u>

Interest is computed through December 18, 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.
