

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 21429
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
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	)	
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[Redacted]. (taxpayer) protested the Notice of Deficiency Determination issued by the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission dated March 5, 2007. The Notice of Deficiency Determination asserted Idaho income tax, penalty, and interest for the taxable years 2002 through 2004 in the total amount of \$167,309.

The taxpayer is [Redacted] located in Idaho. As part of the Bureau’s review function of the Tax Commission’s records, the Bureau found that the taxpayer stopped filing Idaho corporate income tax returns after filing their 1999 income tax return. The Bureau contacted the taxpayer and asked about its requirement to file returns for the taxable years 2000 through 2004. The taxpayer provided income tax returns for the taxable years 2000 and 2001 but failed to provide the other years. The Bureau determined the taxpayer was required to file corporate income tax returns for 2002 through 2004, so the Bureau prepared income tax returns for the taxpayer and sent it a Notice of Deficiency Determination.

The taxpayer protested the Notice of Deficiency Determination, and before the end of the year, the taxpayer provided its 2002 income tax return. The Bureau accepted the taxpayer’s 2002 return and allowed the taxpayer additional time to provide its 2003 and 2004 returns. When the Bureau did not receive those returns, it referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer responded that it would provide income tax returns for the Tax Commission's consideration. A couple of months later, the taxpayer submitted its 2003 corporate income tax return. The taxpayer stated its 2004 return would follow in a few days; however, several months later, the Tax Commission has still not received the taxpayer's 2004 return. The Tax Commission, believing the taxpayer has had ample time to prepare and submit its 2004 income tax return, hereby issues its decision.

The Tax Commission reviewed the taxpayer's 2003 return and accepts it in lieu of the return prepared by the Bureau. The Tax Commission also agrees with the Bureau's decision to accept the taxpayer's 2002 return in lieu of the return prepared by the Bureau. Both of those returns are accepted subject to the normal review process of the Tax Commission.

As for 2004, the taxpayer failed to provide an Idaho income tax return. The Bureau first contacted the taxpayer regarding its 2004 return in 2006. Since that time, the Tax Commission repeatedly contacted the taxpayer in an effort to procure the 2004 return. Yet, the taxpayer failed to provide the return.

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 has done nothing to show the return prepared by the Bureau was incorrect. The taxpayer has not met its burden. The Tax Commission reviewed the 2004 corporate income tax return prepared by the Bureau, for the taxpayer, and found it is a reasonable representation of

the taxpayer's Idaho taxable income. Therefore, the Tax Commission upholds the Bureau's determination for the tax year 2004.

WHEREFORE, the Notice of Deficiency Determination dated March 5, 2007, is MODIFIED, and as so modified 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 May 31, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$ 1,831	\$ 458	\$ 573	\$ 2,862
2004	25,052	6,263	6,604	<u>37,919</u>
			TOTAL DUE	\$40,781
			AMOUNT PAID	<u>(2,840)</u>
			BALANCE DUE	<u>\$37,941</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]  
[REDACTED]

Receipt No.