

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21610
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On October 6, 2008, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income tax, penalty, and interest for taxable years 2001 and 2005 in the total amount of \$1,451.

The taxpayer filed a timely protest. He did not submit additional information or request an informal conference. The Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

When the Bureau could not find any record of the taxpayer's 2001 and 2005 Idaho individual income tax returns, the taxpayer was sent a letter advising him of the missing returns and asking him for an explanation. The taxpayer did not respond.

[Redacted] Idaho Code § 63-3045(1)(a) states:

63-3045. 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.

Because the taxpayer did not file his state income tax returns, the Bureau prepared provisional returns and issued an NODD. The NODD was based on information [Redacted] retained by the Commission. The taxpayer protested the Bureau's determination.

In his letter of protest, the taxpayer stated his income for 2005 looked correct, but for tax year 2001, the taxpayer stated he had withholding and business expenses that he was not given credit for. The taxpayer requested additional time to get income information [Redacted] for 2001.

The Bureau sent the taxpayer a letter to acknowledge his protest and he was allowed a continuance. However, when the returns did not arrive, his file was transferred to the Legal/Tax Policy Division of the Commission for administrative review.

The taxpayer did not respond to a letter advising him of his appeal rights. A follow-up letter was also sent with no response. To date, the Commission has not received the taxpayer's 2001 and 2005 Idaho income tax returns or any additional information.

The Idaho resident individual income tax returns the Bureau prepared on behalf of the taxpayer were based on income information gleaned from the taxpayer's [Redacted] records retained by the Commission.

The Commission's information shows the taxpayer had an active sales/use tax permit and a withholding account under the name of [Redacted] during 2001. Sales/use tax reports submitted by the taxpayer were used to estimate the income and resulting tax due for 2001. Because the Idaho Department of Labor records show employee wages paid by the "[Redacted]" for 2001, an expense for payroll was allowed to offset income.

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 taxpayer stated that the Bureau did not account for business expenses incurred. However, it is the taxpayer's responsibility, and the burden rests upon them to disclose their receipts and claim their proper deductions. United States v. Ballard, 535 F.2d 400 (1976). The Commission recognizes that the taxpayer may have had business expenses to offset his income; yet, 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).

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. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984). The taxpayer has provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable years 2001 and 2005. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated October 6, 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	\$741	\$185	\$339	\$1,265
2005	152	38	33	<u>223</u>
			TOTAL DUE	<u>\$1,488</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.