

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 21695
[Redacted]	)	
Petitioner.	)	DECISION
	)	
_____	)	

On November 19, 2008, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued Notices of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for the taxable years 2001 and 2004 through 2006 in the total amounts of \$706 and \$8,309 respectively.

On January 20, 2009, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but did want to provide additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer failed to file Idaho individual income tax returns for 2002 and 2003 for which the Tax Commission issued a decision upholding his requirement to file those returns. The Tax Discovery Bureau (Bureau) did a follow-up review of the taxpayer and found that he did not file Idaho income tax returns for 2004 through 2005. The taxpayer had also not filed a return for 2001. The Bureau sent the taxpayer a letter asking him to file the missing returns. The taxpayer did not respond. The Bureau obtained information [Redacted], determined the taxpayer was required to file Idaho income tax returns, prepared returns for the taxpayer, and sent the taxpayer Notices of Deficiency Determination.

The taxpayer protested the Bureau's determination stating he had no federal taxable income because he had no taxable sources of income. The taxpayer stated that since he did not

have income earned from a taxable source in the United States, he is not required to file a federal return. Therefore, there is no law to support an income tax filing requirement with the state of Idaho.

The Bureau recognized the taxpayer's statements and arguments as those akin to various tax protestor movements. Consequently, the Bureau referred the matter 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 Tax Commission received a letter and a power of attorney form from the taxpayer's representative stating that the taxpayer no longer protested the legality of paying and filing taxes. The representative asked for a telephone conference to discuss the current situation. The representative also stated additional materials would be sent to the Tax Commission within 10 days.

The Tax Commission contacted the taxpayer's representative and left messages for him to return the calls. A month later, the Tax Commission made contact with the representative and discussed the options available to the taxpayer. The Tax Commission highly recommended that the taxpayer submit returns for consideration. The representative stated he was working on the returns and would follow-up with the Tax Commission.

The taxpayer's representative did not follow-up with the Tax Commission, nor were there any returns submitted. The Tax Commission contacted the representative, but the representative failed to return the Tax Commission's call. Therefore, the Tax Commission decided the matter based upon the information available.

In a previous determination, the Tax Commission found that the taxpayer was required to file Idaho individual income tax returns. As a follow-up to that decision, the Bureau obtained information [Redacted] that showed the taxpayer had wages and other miscellaneous income in excess of the filing threshold of Idaho Code section 63-3030 for each of the tax years in question. The taxpayer initially contested the fact that his income was taxable. However, later, through a representative, the taxpayer abandoned that philosophy and indicated that he would file the appropriate returns. Those returns were never provided.

In Idaho, it is well established that 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 failed to produce anything to show the Bureau's determination was incorrect. He did not meet his burden of proof. The Tax Commission reviewed the returns prepared by the Bureau and found that they are a reasonable representation of the taxpayer's taxable income based upon the information available. Therefore, the Tax Commission upholds the Bureau's determination of the taxpayer's Idaho income tax liability.

The Bureau added interest and penalty to the taxpayer's Idaho tax liability. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notices of Deficiency Determination dated November 19, 2008, are 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 February 1, 2010):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$ 422	\$ 106	\$ 200	\$ 728
2004	116	29	34	179
2005	2,224	556	527	3,307
2006	3,600	900	627	5,127
			TOTAL DUE	<u>\$9,341</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

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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.

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