

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20342
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On May 23, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for taxable years 2002 and 2005 in the total amount of \$53,017.

On July 6, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that showed the taxpayer received wages from an employer in 2002, 2003, and 2004. The Bureau reviewed the Tax Commission's records and found that the taxpayer failed to file Idaho individual income tax returns for taxable years 2002 through 2005. The Bureau sent the taxpayer a letter asking about his requirement to file Idaho income tax returns for the missing years. The taxpayer failed to respond, so the Bureau obtained additional information [Redacted] and prepared income tax returns for the taxpayer. The Bureau sent the taxpayer Notices of Deficiency Determination for taxable years 2002 and 2005 and for taxable years 2003 and 2004.

The taxpayer protested the Notices of Deficiency Determination and subsequently provided income tax returns to the Bureau for taxable years 2002, 2003, and 2004. The taxpayer stated a 2005 return was not provided because he was having difficulty getting his records back

from his previous accountant. The taxpayer stated he was anticipating having to file a lawsuit before he would get his records for 2005. The Bureau allowed the taxpayer additional time to submit his 2005 return, but when the taxpayer failed to provide a 2005 return and stopped communicating with the Bureau, the Bureau cancelled the Notice of Deficiency Determination for 2003 and 2004, accepted the taxpayer's 2002 return, and forwarded the 2005 protest 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 did not respond, so the Tax Commission sent a follow-up letter to the taxpayer. Still the taxpayer failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayer filed Idaho resident income tax returns from as early as 1997 to 2001. After 2001, the taxpayer stopped filing Idaho income tax returns. In 2002, it was reported [Redacted] that the taxpayer earned wages of \$108,000. In 2003, he was reported to have earned \$96,000, and in 2004, the taxpayer earned \$80,500. These amounts are over the threshold for filing Idaho individual income tax returns for each of the years. As for 2005, the taxpayer received 1099 MISC income in excess of \$31,000 and he sold or exchanged stocks and bonds valued at over \$330,000. The 1099 MISC income alone gives the taxpayer a filing requirement for 2005.

The taxpayer provided income tax returns for taxable years 2002, 2003, and 2004. The Bureau reviewed those returns and accepted them in lieu of the returns it prepared for those years. The taxpayer also intended to submit a return for 2005; however, no return was provided.

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 provided nothing to show the return prepared by the Bureau for 2005 was incorrect. He has not met his burden of proof. Since the taxpayer has not met his burden of proof with regard to taxable year 2005, the Tax Commission hereby upholds the Bureau's determination that the taxpayer was required to file an Idaho income tax return for 2005 and that the taxable income as determined by the Bureau is reasonable based upon the information available. As for the deficiency asserted for taxable year 2002, the Tax Commission finds the Bureau's cancellation of the deficiency appropriate in light of the 2002 return provided by the taxpayer.

The Bureau added interest and penalty to the taxpayer's 2005 tax deficiency. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

WHEREFORE, the Notice of Deficiency Determination dated May 23, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is 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>
2005	\$27,586	\$6,897	\$7,364	\$41,847

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 _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2010, 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.
