

DISCUSSION OF FACTS AND ANALYSIS

Auditor's Protest Summary

The Auditor's Protest Summary reads as follows:

[Redacted] filed individual income tax returns for 1998 & 2000-2006. They failed to file income tax returns for 1999 & 2007. According to [Redacted], the taxpayers received all of their income from late 1997 through 2007 by growing and selling illegal drugs. Their returns claimed income from various businesses including woodworking and sewing. They were given credit for the income claimed on their actual returns. Their expenses were disallowed because business expenses involved in the trafficking of controlled substances are not allowed. (Title 26, Subtitle A, Chapter 1, Subchapter B, Part IX, Sec. 280E.)

Taxpayers' Assertions

The taxpayers asserted in their protest that (1) the gross income figures are in error, (2) they received no credit for taxes paid, and (3) they have not had their day in court. The taxpayers further asserted that the NODs "have been arbitrarily calculated without regard for their Due Process Rights" and the "Enabling Statute(s) are punitive in nature and violate the excessive fines Constitutional Prohibition." Mr. [Redacted] also argued at the informal conference that he has an inability to pay these tax liabilities.

Analysis

No credible evidence was presented to the Commission in support of the assertion that the gross income figures asserted in the NODs were in error. No credible evidence was presented to the Tax Commission to contradict the Tax Commission's assertions that the taxpayers received credit for the income claimed on their actual returns, or that the Tax Commission did not correctly address any credit for taxes paid.

As far as the other legal claims presented by the taxpayers in the protest, no further argument has been presented other than the statements in the protest. The NODs were not

arbitrarily calculated but based upon the information available to the Tax Commission in the police reports. The excessive fines argument lacks merit as the taxes asserted in this proceeding are separate from any consequences related to the taxpayers' criminal and civil forfeiture proceedings.

The Tax Commission will not grant Mr. [Redacted] request for relief due to an inability to pay. This decision is limited to the liability issues under the income and sales tax acts. Although the Tax Commission does have the ability to settle under this argument, in this instance it is best left for the collection process.

CONCLUSION

It is well settled in Idaho that a Notice of Deficiency Determination 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 taxpayer to show that the tax deficiency is erroneous. Id. Since the taxpayers have failed to meet this burden, the Tax Commission finds that the amount shown due on the Notices of Deficiency Determination are true and correct.

The Bureau also added interest, which will continue to accrue pending payment of the tax liability pursuant to Idaho Code §63-3045(6), and penalty to the taxpayers' tax deficiency. The Tax Commission finds those additions appropriate as provided for in Idaho Code §§ 63-3045 and 63-3046.

WHEREFORE, the Notices of Deficiency Determination dated March 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:

SALES AND USE TAX

Taxable Sales	\$672,289
Total Items Subject to Use Tax	0
Taxable	672,289
Tax Due	35,724
Penalty Due	17,863
Interest Due	<u>\$ 17,886</u>
Total Due for Sales and Use Tax	<u>\$ 71,473</u>

Interest is calculated through July 31, 2010.

INCOME TAX

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$1,981	\$ 991	\$1,444	\$ 4,416
1999	4,039	1,010	2,648	7,697
2000	1,044	522	601	7,167
2001	6,826	3,413	3,407	13,646
2002	2,194	1,097	954	4,245
2003	4,744	2,372	1,811	8,927
2004	1,976	988	636	3,600
2005	742	371	194	1,307
2006	2,492	1,246	496	4,234
2007	1,830	0	236	<u>2,066</u>
			Total Due	<u>\$52,305</u>

Interest is calculated though July 31, 2010.

DEMAND for immediate payment of the foregoing amounts are hereby made and given.

An explanation of the taxpayers' 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]
[REDACTED]

Receipt No.
