

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21268
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On May 21, 2008, the Income Tax Audit Division (division) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable year 2004 in the total amount of \$1,146.

A timely protest and petition for redetermination was filed by the petitioner. The petitioner has not requested a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner was issued an NOD by the Commission [Redacted]. [Redacted] The division, therefore, issued an NOD based on that information and adjusted the petitioner's Idaho return. The Commission finds that the division correctly recomputed the petitioner's tax liability [Redacted].

In the petitioner's protest letter received by fax on July 2, 2008, he stated in part:

Enclosed is [sic] copies of dispute with adjusted tax returns sent to [Redacted] with the IRS appeals office. I request this is notice as an appeal to the state of Idaho Tax Commission that I do not owe this money in the amount of \$1146.00. I'm self employed and itemize every year which is where the error came from that I'm disputed with my amended 2005 returns.

On June 17, 2009, the tax policy specialist (policy specialist) sent the petitioner a letter to inform him of the alternatives for redetermining a protested NOD. The hearing rights letter was returned by the postmaster marked "not deliverable as addressed." The letter was remailed to the

petitioner's most current address found on the Commission's system. This letter was also returned by the postmaster marked "no such street." A follow-up letter was sent to the petitioner on August 14, 2009, to an address given to the Commission by the petitioner during a telephone call with him. The petitioner responded to the follow-up letter on August 25, 2009. The petitioner wrote a note on the letter stating that he was resolving this matter with the tax court by telephone and would keep the policy specialist informed.

A copy of that petitioner's account transcript was requested [Redacted] on February 12, 2010. On January 26, 2008, the account transcript showed "intent to levy collection due process notice, levy notice issued." On February 4, 2008, the account transcript showed that the levy notice was undeliverable. The [Redacted] used the petitioner's 2007 income tax refund to pay off his 2004 liability.

Idaho Code § 63-3002 states that it is the intent of the Idaho Legislature, insofar as possible, to make the Idaho Income Tax Code identical to the Internal Revenue Code in the way taxable income is determined. Idaho Code § 63-3069 states that, upon a final determination of any deficiency or refund of [Redacted] taxes, written notice shall be immediately sent to the State Tax Commission by a taxpayer. IDAPA 35.01.01 Income Tax Administrative Rule 890.03 states that immediate written notification is required within 60 days of the final determination.

From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho Legislature intended any changes made to a petitioner's [Redacted] return to be reflected on the petitioner's Idaho return.

The petitioner has the burden of proving the adjustments were incorrect. The petitioner would like the Commission to re-audit [Redacted]. The Commission's position is that the petitioner must be granted relief at the [Redacted] level before relief can be granted at the state level. The petitioner has failed to carry the burden in this matter.

Since the petitioner has not provided the Commission with a contrary result [Redacted], the Commission must uphold the deficiency as asserted.

WHEREFORE, the Notice of Deficiency Determination dated May 21, 2008, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$907	\$45	\$288	\$1,240

Interest is calculated through July 7, 2010, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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 _____, 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2010, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
