

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21833
[Redacted])	
)	DECISION
Petitioner.)	
_____)	

On January 9, 2009, 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 2003 through 2005 in the total amount of \$3,919.

The taxpayer protested the determination for taxable years 2003 and 2004 and subsequently submitted Idaho individual income tax returns for those years. The taxpayer did not protest taxable year 2005, therefore, it will not be addressed further in this decision. The Commission, having reviewed the file, hereby issues its decision regarding the aforementioned years.

The taxpayer failed to file his 2003 and 2004 Idaho individual income tax returns. Because Commission records showed the taxpayer met the state income tax filing requirements and had not filed his Idaho income tax returns for the previously mentioned years, the Bureau attempted to contact him for clarification. The taxpayer did not respond.

[Redacted].

Idaho Code § 63-3045 (1)(a) states:

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.

The Bureau prepared the missing Idaho income tax returns on behalf of the taxpayer and sent him an NODD. The NODD was based on information obtained from [Redacted] records retained by the Commission.

The taxpayer protested the Bureau's determination and on March 16, 2009, submitted Idaho individual income tax returns for taxable years 2003 and 2004. The returns submitted by the taxpayer were based on [Redacted] income tax returns that were filed to include a Net Operating Loss the taxpayer claimed to have incurred in taxable year 2002.

[Redacted]The Commission sent the taxpayer a letter that explained the methods available for redetermining a Notice of Deficiency Determination. The taxpayer did not respond. The Commission sent a follow-up letter to the taxpayer but still received no response from him. Therefore, the Commission decided the matter based upon the information available.

The taxpayer did not dispute that he had a requirement to file Idaho income tax returns. He contested the Bureau's determination of his taxable income for both taxable years 2003 and 2004. The taxpayer's claim that he sustained a business loss in 2002, which could be carried over to 2003 and 2004, was unsubstantiated and could not be verified by the Bureau. Consequently, the Bureau did not allow a net operating loss carryforward.

The Commission reviewed the returns prepared by the Bureau for taxable years 2003 and 2004 and found them appropriate for the information available. Since the taxpayer failed to provide anything other than what are called "self-serving statements" for taxable years 2003 and 2004, he did not meet his burden of proof to show that the returns prepared by the Bureau for

those years was incorrect. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984). Therefore, the Commission finds that there was no basis for making any changes to the NODD and hereby upholds the Bureau's determination for taxable years 2003 and 2004.

The taxpayer made estimated payments of \$843 and \$1,644 for taxable years 2003 and 2004, respectively, which offset a portion of the Idaho income tax due. The interest and penalty added by the Bureau pursuant to Idaho Code §§ 63-3045 and 63-3046 was reviewed and found to be proper and in accordance with Idaho Code.

WHEREFORE, the Notice of Deficiency Determination dated January 9, 2009, is hereby MODIFIED, APPROVED, 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>
2003	\$ 705	\$176	\$262	\$1,143
2004	1,638	410	510	<u>2,558</u>
			TOTAL DUE	<u>\$3,701</u>

Interest is computed through May 15, 2010.

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.
