

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22021
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On February 19, 2009, 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 year 2006 in the total amount of \$1,382.

On April 23, 2009, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather submitted additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer timely filed a 2006 Idaho resident individual income tax return. The taxpayer's return was processed, and the taxpayer received the refund claimed. Subsequently, during the matching and verification processes, the Tax Discovery Bureau (Bureau) found that the taxpayer's 2006 return omitted [Redacted] income and his W-2 was not submitted to the Tax Commission by his employer. The Bureau contacted the taxpayer's employer to verify that the taxpayer's withholdings were paid to the state of Idaho. The taxpayer's employer did not respond. The Bureau researched the Tax Commission's records further and found that the employer did not have [Redacted] with the Tax Commission. The taxpayer's employer operates solely within [Redacted].

Since the taxpayer electronically filed his Idaho return, the Bureau sent the taxpayer a letter asking for a copy of his 2006 W-2 [Redacted]. The taxpayer did not respond, so the

Bureau sent a follow-up letter asking again for the W-2 and a copy of his 2006 [Redacted] return. The taxpayer still failed to respond, so the Bureau adjusted the taxpayer's Idaho income tax return for the omitted income and for the unverified withholdings.

The taxpayer protested the Bureau's adjustment stating he did not live in Idaho. He stated he lived and worked [Redacted] from April 2006 until October 6, 2006. The taxpayer stated that when he went to work [Redacted] he moved [Redacted]. He only moved back to Idaho to his parents when he was laid off by his employer. The taxpayer stated he did not understand how he could owe Idaho income tax when he did not work in Idaho.

The Bureau reviewed the information provided and determined the taxpayer was not required to file an Idaho income tax return for 2006. The Bureau modified its determination and reduced the deficiency to the amount the taxpayer received as a refund of the withholdings that were never remitted to the state of Idaho. The taxpayer did not respond to the modified deficiency, so the Bureau referred the matter for administrative review.

The Tax Commission reviewed the case and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer contacted the Tax Commission and stated that his representative would handle the matter. The taxpayer's representative did not contact the Tax Commission, so the Tax Commission contacted the taxpayer and explained what was happening with his 2006 Idaho income tax return. The taxpayer stated he did not know why his preparer prepared an Idaho income tax return when he did not work in Idaho in 2006. He stated he filed an [Redacted] return for that year and received a refund [Redacted]. The taxpayer stated he would send the Tax Commission a copy of his [Redacted] return and his W-2. He said he would also discuss this with his preparer.

The taxpayer did provide a copy of his [Redacted] return but did not include a copy of the W-2. The Tax Commission reviewed the taxpayer's 2006 [Redacted] return and found that the taxpayer reported the same income and the same withholdings [Redacted] that he reported to Idaho. Since the taxpayer's [Redacted] return resulted in a refund and the taxpayer stated he got a refund [Redacted], one can assume the W-2 the taxpayer submitted with his [Redacted] return identified the withholdings as [Redacted].

Seeing that the taxpayer filed an [Redacted] return and received a refund of his excess withholdings, and because the Tax Commission has no record of receiving any withholdings from the taxpayer's employer, the Tax Commission finds that the taxpayer filed his Idaho income tax return in error and that the refund issued to the taxpayer was issued in error. Therefore, the Tax Commission upholds the Bureau's determination that the taxpayer's tax deficiency is the amount of the refund sent to the taxpayer.

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

WHEREFORE, the Notice of Deficiency Determination dated February 19, 2009, 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>REFUND</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$658	\$ 33	\$135	\$826

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.
