

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22096
[Redacted],)	
)	
Petitioner.)	DECISION
)	

On May 14, 2009, the Idaho State Tax Commission’s (Commission) Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable years 2001 through 2004 in the total amount of \$11,999. The petitioner filed a timely petition for redetermination. The petitioner was informed of his appeal rights. The Commission, having reviewed the file, hereby issues its decision.

Based upon information available to the Commission, the TDB determined that the petitioner had an Idaho filing requirement for taxable years 2001 through 2004. The TDB initiated contact with the petitioner requesting that the petitioner file an Idaho income tax return for these years or, in the alternative, explain why the petitioner would not have an Idaho filing requirement. The petitioner responded that he worked and lived in Nevada during these years.

Since the petitioner did not provide the Idaho returns as requested, the TDB issued the NODD. The TDB calculated the petitioner’s Idaho taxable income and Idaho income tax liability as follows:

Table 1	2004	2003	2002	2001
Federal adjusted gross income	\$52,414	\$39,973		\$29,682
Wages			\$19,093	
Federal Form K-1			1,145	
Standard deduction	-4,850	-4,750	-4,700	-4,550
Personal exemption	-3,100	-3,050	-3,000	-2,900
Idaho taxable income	\$44,464	\$32,173	\$12,538	\$22,232

Table 2	2004	2003	2002	2001
Idaho income tax liability	\$3,183	\$2,231	\$740	\$1,467
Permanent building fund	10	10	10	10
Grocery credit	-20	-20	-20	-20
Withholding	0	0	0	0
Net Income Tax Due	\$3,173	\$2,221	\$730	\$1,457

[Redacted].

In the NODD, the TDB noted that the petitioner purchased a resident Fish and Game license in 2001, 2002, and 2004. The petitioner's license indicated that he had been a resident of Idaho since 1992. The petitioner maintained an Idaho driver's license since 2000. The petitioner's federal income tax returns were filed with an Idaho address, and the petitioner had worked for an Idaho employer during these years. It is this documentation that leads the TDB to the conclusion that the petitioner was an Idaho resident required to file an Idaho resident individual income tax return for taxable years 2001 through 2004.

The petitioner filed a timely petition for redetermination on November 10, 2009. In the petition, the petitioner indicated that he needed more time to gather up W-2 and other information that may help him with the tax issue. The petitioner was informed of his appeal rights on January 5, 2010. The petitioner did not respond to the appeal rights letter.

As of the date of this decision, the petitioner has not filed the requested returns nor provided any information that would resolve this case in the petitioner's favor for taxable years 2001 through 2004. It is the petitioner's burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State Dept. of Revenue, 106 Idaho 810, 814, (1984); Parsons v. Idaho State Tax Comm'n, 110 Idaho 572, 574 (Ct. App. 1986). Since the petitioner has not met this burden of proof showing that the NODD prepared by the TDB for taxable years 2001 through 2004 is incorrect, the Commission upholds the TDB's determination for these years.

For all taxable years, interest was included in the NODD in accordance with Idaho Code section 63-3045 as was the Idaho Code section 63-3045(c)(1) failure to file an Idaho income tax return penalty. The penalty percentage is 5 percent per month with a maximum rate of 25 percent.

WHEREFORE, the Notice of Deficiency Determination dated May 14, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$1,457	\$364	\$ 721	\$2,542
2002	730	183	315	1,228
2003	2,221	555	838	3,614
2004	3,173	793	1,008	<u>4,974</u>
			TOTAL DUE	<u>\$12,358</u>

Interest is calculated through June 30, 2010, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

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 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.