

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22185
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On June 24, 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 \$4,618.

Commission records show the taxpayer was an Idaho resident who appears to meet the Idaho individual income tax filing requirements. The Bureau attempted to contact the taxpayer for an explanation of why his 2003 through 2005 Idaho returns had not been filed, but he did not respond to the inquiries.

[Redacted]. The income information suggested the taxpayer had a requirement to file 2003 through 2005 Idaho individual income tax returns.

Idaho Code § 63-3045 (1)(a) states:

63-3045. 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.

Determining the taxpayer had a requirement to file resident individual income tax returns; the Bureau prepared Idaho returns on his behalf and sent him an NODD. In response to the NODD, the taxpayer submitted a timely protest in which he requested an additional 60 days to prepare his returns.

The Bureau sent the taxpayer a letter acknowledging his protest and granting him the additional time requested. The taxpayer did not provide the returns within 60 days as stated in his protest letter. The Bureau made two subsequent requests for the returns, each time granting the taxpayer additional time to respond.

When the missing returns did not arrive, his file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter from the tax policy specialist wherein he was advised of his rights to appeal. A follow-up letter sent by the tax policy specialist also went unanswered. Therefore, the Commission decides the matter based upon the information available.

[Redacted]. It is the taxpayer's responsibility, and the burden rests upon him to disclose his receipts and claim his proper deductions. United States v. Ballard, 535 F.2d 400 (1976).

However, the Commission recognizes the taxpayer more than likely had business expenses to offset his income. The taxpayer had a withholding account for his business, but that account was closed in 2003. Therefore, an expense for wages could not be determined for the years of the deficiency. So, in an effort to be fair and equitable, the Commission used a formula to estimate expenses and reduced the taxpayer's adjusted gross income. The formula was an average percentage of the five prior years cost of goods sold taken from the actual returns filed by the taxpayer.

Interest and penalty were added pursuant to Idaho Code §§ 63-3045 and 63-3046. The Commission reviewed those additions and found them proper and in accordance with Idaho Code.

WHEREFORE, the Notice of Deficiency Determination dated June 24, 2009, is hereby MODIFIED, and as so modified, is 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>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$202	\$51	\$85	\$338
2004	330	83	108	521
2005	0	0	0	<u>0</u>
			TOTAL DUE	<u>\$859</u>

Interest is calculated through August 30, 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.