

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22319
[Redacted])	
)	DECISION
Petitioner.)	
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)	

On August 20, 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 ending June 30, 2007, and June 30, 2006, in the total amount of \$33,586.

The petitioner filed a timely petition for redetermination. The petitioner was informed of its appeal rights.

The Commission, having reviewed the file, hereby issues its decision. For purposes of this decision, the June 30, 2007, taxable year and the June 30, 2006, taxable year will be referred to as taxable year 2006 and taxable year 2005, respectively.

The petitioner had an active Idaho sales tax permit and an active Idaho withholding permit during taxable years 2006 and 2005. The TDB determined, based upon a review of the Commission’s records, that the petitioner had an Idaho income tax filing requirement and had not filed an Idaho corporate income tax return for taxable years 2006 and 2005.

After several unsuccessful attempts to acquire, from the petitioner, the required income tax filings, the TDB issued the NODD on August 20, 2009. In the NODD, the TDB calculated the petitioner’s Idaho tax liability as follows:

Table 1 – Calculation of Tax Liability

	Taxable Year	
	2006	2005
Sales per Idaho Sales Tax Return	\$1,809,533	\$1,837,648
Payroll per Idaho withholding returns	-287,142	-287,978
Cost of goods sold (estimate)	-1,368,912	-1,390,181
Net income subject to apportionment	153,479	159,489
Idaho apportionment factor	100%	100%
Income apportioned to Idaho	153,479	159,489
Income allocated to Idaho	0	0
Idaho net operating loss	0	0
Idaho taxable income	\$153,479	\$159,489
Idaho income tax	\$11,664	\$12,121
Permanent building fund tax	10	10
Net tax due	\$11,674	\$12,131

Interest was included in the NODD in accordance with Idaho Code section 63-3045. A penalty was also included for failure to file an Idaho income tax return per Idaho Code section 63-3046(c)(1). The penalty percentage is 5 percent per month with a maximum rate of 25 percent.

In the petitioner’s petition for redetermination dated October 19, 2009, the petitioner does not deny that it was required to file an Idaho income tax return for taxable years 2006 and 2005. Instead, the petitioner lists its excuses for not having filed its returns and various arguments against the correctness of the NODD. The petitioner argues that the NODD does not:

1. reflect the petitioner’s requirement to file a consolidated federal income tax return,
2. reflect the proper allocation of income between business conducted within and without Idaho, and
3. allow certain deductions that would be allowed to the petitioner under the Internal Revenue Code section 162.

As of the date of this decision, the petitioner has not filed the requested Idaho income tax returns or provided information that would resolve this case in the petitioner's favor. 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 of showing that the NODD prepared by the TDB for taxable years 2006 and 2005 is incorrect, the Commission upholds the TDB's determination as shown in the NODD.

WHEREFORE, the Notice of Deficiency Determination dated August 20, 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>
June 30, 2007	\$11,674	\$2,919	\$2,157	\$16,750
June 30, 2006	\$12,131	3,033	3,063	<u>18,227</u>
			TOTAL DUE	<u>\$34,977</u>

Interest has been updated and is calculated through December 31, 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.
