

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22837
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On December 4, 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 2006 through 2008 in the total amount of \$19,243.

The taxpayer filed a timely protest. He did not submit additional information or request an informal conference. The Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

When the Bureau could not find any record of the taxpayer's 2006 through 2008 Idaho individual income tax returns, the taxpayer was sent a letter advising him of the missing returns and asking him for an explanation. The taxpayer did not respond.

[Redacted] 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.

Because the taxpayer did not file his state income tax returns, the Bureau prepared provisional returns and issued an NODD. The NODD was based on information obtained from [Redacted] and records retained by the Commission. The taxpayer protested the Bureau's determination stating that he had dependent deductions and expenses that were not taken into consideration on the NODD. The taxpayer further stated that he was gathering the necessary information to figure the correct dollar amount owed for taxable years 2006 through 2008 and would submit that information as soon as possible.

The Bureau sent the taxpayer a letter acknowledging his protest and granting him additional time to gather the necessary information. However, when the returns did not arrive as promised, his file was transferred to the Legal/Tax Policy Division of the Commission for administrative review.

The taxpayer did not respond to a letter advising him of his appeal rights. A follow-up letter was also sent with no response. To date, the Commission has not received the taxpayer's 2006 through 2008 Idaho individual income tax returns or any additional information. The Commission, believing the taxpayer has had more than an adequate amount of time to prepare and submit his income tax returns, decided this matter based on the information available.

The Idaho resident individual income tax returns the Bureau prepared on behalf of the taxpayer were based on income information gleaned from the taxpayer's federal income records and the records retained by the Commission. The filing status of single was used to determine the taxpayer's Idaho income tax responsibility.

For the years of the NODD, the taxpayer owned and operated [Redacted]. The taxpayer reported wages to the Idaho Department of Labor, and the Bureau used that information to estimate the income and resulting tax due for taxable years 2006 through 2008. The taxpayer

was allowed a deduction for wages each year equal to the amount of payroll reported to the Idaho Department of Labor. Withholding of \$198 and \$417 for taxable years 2006 and 2008 respectively was identified by the Bureau and allowed to offset a portion of the tax due.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer did not meet his burden. The taxpayer stated that the Bureau did not account for the expenses incurred or allow dependent deductions. However, 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). The Commission recognizes that the taxpayer may have had business expenses to offset his income; yet, if the taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and the taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S. Ct. 413 (1931). Since the taxpayer failed to meet his burden, the Commission finds the adjusted gross income amount for taxable years 2006 through 2008, prepared by the Bureau, is a reasonable representation of the taxpayer's Idaho adjusted gross income based upon the information available.

The interest and penalty added by the Bureau pursuant to Idaho Code §§ 63-3045 and 63-3046 was reviewed and found to be proper.

WHEREFORE, the Notice of Deficiency Determination dated December 4, 2009, is hereby 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>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$2,507	\$ 627	\$559	\$ 3,693
2007	6,439	1,610	984	9,033
2008	5,382	1,346	477	<u>7,205</u>
			TOTAL DUE	<u>\$19,931</u>

Interest is calculated through January 21, 2011.

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.
