

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 23009
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On April 15, 2010, 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 \$34,559.

The taxpayer filed a timely appeal. He did not request a hearing. The Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Commission records show the taxpayer was an Idaho resident who appeared to meet the Idaho individual income tax filing requirements. The Bureau attempted to contact the taxpayer for an explanation of why his 2006 through 2008 Idaho income tax returns had not been filed, but he did not respond to the inquiries.

[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.

The Bureau prepared the missing Idaho income tax returns on behalf of the taxpayer and sent him an NODD. The NODD was based on information obtained [Redacted] and records retained by the Commission.

On June 15, 2010, the Commission received a timely protest to the Bureau's determination. The appeal letter submitted on behalf of the taxpayer by his accountant stated that he was working with the taxpayer to prepare returns but was unsure of a date the returns would be completed. He also stated the taxpayer was a self-employed trucker who had expenses that were not taken into consideration on the NODD.

The Bureau acknowledged the protest on June 17, 2010, and gave the taxpayer a due date of July 15, 2010, in which to have the returns completed. When no returns were received, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

The taxpayer did not respond to a letter sent by the tax policy specialist advising him of his appeal rights. A follow-up letter was also sent with no response.

The NODD prepared by the Bureau was based on records available to the Commission and 1099-MISC income reported [Redacted] in the taxpayer's social security number. The interest and penalty added by the Bureau pursuant to Idaho Code §§ 63-3045 and 63-3046 was reviewed and found to be proper and in accordance with Idaho Code.

A Notice of Deficiency Determination issued by the Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show the deficiency is erroneous. The taxpayer's appeal letter stated that the Bureau did not account for business expenses incurred. However, it is the taxpayer's responsibility, and the burden rests upon them to disclose their receipts and claim their 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).

Having presented no information in support of his argument, the taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer has provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable years 2006 through 2008.

WHEREFORE, the Notice of Deficiency Determination dated April 15, 2010, 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	\$11,340	\$2,835	\$ 2,613	\$16,788
2007	11,159	2,790	1,789	15,738
2008	2,196	549	211	2,956
			TOTAL DUE	\$35,482

Interest is calculated through April 5, 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.

---