

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22432
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On October 2, 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 2004 through 2007 in the total amount of \$54,613.

The taxpayer filed a timely appeal. He did not request a hearing but has submitted an income tax return for taxable year 2004. The return has been reviewed, will be forwarded to processing, and is subject to the normal review process. The NODD is cancelled for taxable year 2004. No other returns have been received. Therefore, the Commission hereby issues its decision modifying the NODD.

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 2004 through 2007 Idaho income tax returns had not been filed, but he did not respond to the inquiries.

The Bureau requested and received a transcript of the taxpayer's [Redacted] income records from [Redacted]. The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

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 returns on behalf of the taxpayer and sent him an NODD. The NODD was based on information obtained from [Redacted] and records retained by the Commission.

On November 30, 2009, the Commission received a timely protest to the Bureau's determination. The taxpayer stated he was working with an accountant to prepare returns and would be filing them as soon as possible. He also stated that he had expenses associated with his [Redacted] business that were not taken into consideration on the NODD.

The Bureau acknowledged the protest on November 2, 2009, and gave the taxpayer a due date of January 8, 2010, in which to have the returns completed. When the returns did not arrive, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

The tax policy specialist sent him a letter dated August 12, 2010, advising him of his appeal rights. The taxpayer responded, again asking for additional time to have his returns prepared. The taxpayer stated he was having difficulty finding work; therefore, he could not afford to pay his accountant to prepare the returns. A six-week extension was granted the taxpayer, and on October 13, 2010, the Commission received the taxpayer's 2004 individual income tax return. To date, no other returns have been received.

The NODD prepared by the Bureau was based on records available to the Commission and 1099-misc income reported to [Redacted] in the taxpayer's social security number. The

NODD made no allowance for expenses related to the taxpayer's business. The income tax return submitted by the taxpayer for taxable year 2004 reported business expenses which appear to be reasonable. The Commission, therefore, has made an allowance for business expenses for taxable years 2005, 2006, and 2007 equal to the percentage of expenses shown on the 2004 return. 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.

THEREFORE, the Notice of Deficiency Determination dated October 2, 2009, is hereby AFFIRMED AS MODIFIED by this decision.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$4,341	1,085	1,357	6,783
2006	3,130	783	782	4,696
2007	2,537	634	456	<u>3,627</u>
			TOTAL DUE	<u>\$15,106</u>

Interest is calculated through September 30, 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 _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2011, 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.
