

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22456
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On October 21, 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 year 2003 in the total amount of \$6,596.

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.

On March 24, 2009, the Bureau received notice from [Redacted] that because the taxpayer failed to file a [Redacted] income tax return for taxable year 2003, they had prepared a return for him. The [Redacted] assessment used a filing status of Married, Filing Separate and was based on wage income, an early distribution from a retirement account, and self-employment income.

After receiving notice [Redacted], the Bureau recognized the taxpayer had also failed to file an Idaho individual income tax return for taxable year 2003. Commission records showed the taxpayer was an Idaho resident who appeared to meet the Idaho individual income tax filing requirements. Therefore, the Bureau attempted to contact the taxpayer for an explanation of why his 2003 Idaho return had not been filed, but he did not respond to the inquiries.

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 return on behalf of the taxpayer and sent him an NODD. The NODD was based on the information provided by [Redacted] and those records retained by the Commission.

On November 2, 2009, the taxpayer protested the Bureau's determination. In his protest letter, the taxpayer stated that he had submitted an actual [Redacted] income tax return [Redacted] and was awaiting their response.

The Bureau acknowledged the protest on December 10, 2009, and informed the taxpayer that if no additional information was received in the next 60 days, his file would be transferred to the Legal/Tax Policy Division for administrative review. The Bureau received no further contact from the taxpayer or any notice from the taxpayer that [Redacted] had changed or cancelled their original assessment. The taxpayer's file was transferred to the Legal/Tax Policy Division for continuation of the appeals process.

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

The NODD prepared by the Bureau was based on the [Redacted] Report issued by [Redacted] and Commission records. The Bureau researched Commission records for a copy of

the taxpayer's W-2 to allow a credit for withholding, but the record was unavailable. The Bureau even went as far as to request a copy of the W-2 from the taxpayer's employer in an effort to identify any withholding, but this attempt was also unsuccessful. 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.

Throughout the appeals process, the Commission reviewed federal information from [Redacted] every few months for any changes to the taxpayer's [Redacted] income tax return. The federal information continued to show the taxpayer's [Redacted] taxable income to be the same as that shown on the original assessment. The information also showed [Redacted] received an amended return from the taxpayer. However, the additional tax assessed by examination has not been abated, and there is no change to the taxpayer's [Redacted] taxable income which would indicate [Redacted] did not accept the amended return.

The taxpayer has not provided the Commission with a contrary result to [Redacted] original redetermination. The taxpayer must be granted relief at the [Redacted] level before relief can be granted at the state level. The Commission accepts the Bureau's determination of Idaho income and Idaho income tax for taxable year 2003.

THEREFORE, the Notice of Deficiency Determination dated October 21, 2009, and directed to [Redacted] is hereby AFFIRMED.

IT IS ORDERED 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	\$4,114	\$1,029	\$1,855	\$6,998

Interest is calculated through March 15, 2012.

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.