

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23421
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On August 4, 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 and 2007 in the total amount of \$84,637.

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 modifying the NODD.

When the Bureau could not find any record of the taxpayer's 2006 and 2007 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.

The Bureau requested and received income information from the Internal Revenue Service (IRS) in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077. Those records indicated that the taxpayer's income for the years in question exceeded the filing requirements of Idaho Code § 63-3030.

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 Idaho individual income tax returns, the Bureau prepared provisional returns and issued an NODD. The NODD was based on information obtained from [Redacted] and those records retained by the Commission. The taxpayer protested the Bureau's determination. The taxpayer did not give a specific reason why the NODD was not correct but rather explained the reason for his delinquent returns was due to some hard financial times. The taxpayer asked for additional time in which to get caught up on a past due balance with his accountant and stated he would then submit actual returns.

The Bureau sent the taxpayer a letter acknowledging his protest. He was allowed a continuance, 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. To date, the Commission has not received the taxpayer's 2006 or 2007 Idaho income tax returns, any additional information, or a response of any kind from the taxpayer.

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 [Redacted] income records and the records retained by the Commission.

The Commission's information shows the taxpayer was the registered agent and manager of [Redacted]. The corporation registered with the Secretary of State on June 16, 2005, and was administratively dissolved on September 4, 2008.

The Commission's information also shows the taxpayer had an active sales/use tax permit for [Redacted] during taxable years 2006 and 2007. Sales/use tax reports submitted by the taxpayer were used to estimate the business income for taxable years 2006 and 2007. An expense for cost of goods sold was estimated by the Bureau and allowed to offset income. The estimate was based on the actual cost of goods sold and percentage of sales from the 2005 return filed by the taxpayer.

The NODD prepared by the Bureau also included, for taxable year 2007, income from the sale of real property. In 2007, the taxpayer sold real property for \$477,000. The Bureau was unable to determine a cost basis for the taxpayer in this property but did allow a deduction for Idaho Capital Gains in the amount of \$286,000 resulting in a net income of \$190,800.

The Bureau used the business income, along with the income from the sale of real property in 2007 to arrive at Idaho adjusted gross income and the resulting tax due for the taxpayer for both taxable years.

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 and 2007. The Commission believes this is a reasonable estimate of the taxpayer's Idaho income tax liability.

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 NODD issued by the Bureau dated, August 4, 2010, is hereby MODIFIED, and as modified, is 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	\$11,696	\$2,924	\$2,834	\$17,454
2007	21,480	5,370	3,698	<u>30,548</u>
			TOTAL DUE	<u>\$48,002</u>

Interest is calculated through July 22, 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.
