

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23572
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On August 16, 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 year 2001 and taxable years 2003 through 2008 in the total amount of \$4,296.

On October 14, 2010, the taxpayer filed a timely protest and provided information concerning taxable years 2001 and 2003. The Bureau reviewed the information submitted and determined the NODD for taxable years 2001 and 2003 should be cancelled. Those years will not be mentioned further in this decision. No information was submitted for taxable years 2004 through 2008. The Commission, having reviewed the file, hereby issues its decision modifying the NODD.

Commission records indicate the taxpayer appears to be an Idaho resident who meets the Idaho individual income tax filing requirements. The Bureau attempted to contact the taxpayer for an explanation of why his 2004 through 2008 Idaho returns had not been filed, but he did not respond.

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 those records retained by the Commission.

The taxpayer responded to the NODD requesting more time to further investigate the State of Idaho's claims of any potential tax liability. The taxpayer also stated he believed further investigation on the matter was warranted. The Bureau considered the correspondence to be a protest and referred the matter to the Legal/Tax Policy Division for administrative review

The Commission sent the taxpayer a letter that explained the methods available for redetermining a Notice of Deficiency Determination. One of the options available to the taxpayer was to appear for an informal hearing, if he wished to do so. The taxpayer responded stating it was his assumption that any determination reached by the Commission would be legally binding and if this was the case, he would require legal counsel but did not have the funds to hire an attorney. The taxpayer then insisted that the State of Idaho either:

- (1) Appoint local legal counsel to me at this hearing and throughout the extent of this process.
 - (2) Send me to law school and we will take this up when I graduate.
- Or
- (3) If the lack of my complicity to the whims of your "commission" can turn into criminal charges against me, I will appeal said determination of said "commission" until the end of time stating that my constitutional rights to legal counsel are being violated.

A follow-up letter was also sent by the Commission again giving the taxpayer the option to appear for a hearing or provide additional information. The taxpayer responded with, among other comments, the statement, "Therefore, as it stands, I refuse to take part in this horse and pony show of yours and it is with extreme prejudice and UNDER DURESS that I state, do what you will." Therefore, the Commission decides the matter based upon the information available.

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.

The Idaho resident individual income tax returns the Bureau prepared on behalf of the taxpayer were based on income information gleaned from [Redacted] income records and the records retained by the Commission. Withholding in the amount of \$660 and \$123 for taxable years 2004 and 2006, respectively, was identified by the Commission and allowed to offset a portion of the Idaho income tax due.

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 Idaho State Tax 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. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer failed to file his 2004 through 2008 Idaho individual income tax returns. 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. Absent information to the contrary, the Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for those years.

WHEREFORE, the Notice of Deficiency Determination dated August 16, 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>
2004	\$587	\$147	\$212	\$ 946
2005	642	161	193	996
2006	100	25	24	149
2007	631	158	106	895
2008	549	137	57	<u>743</u>
			TOTAL DUE	<u>\$3,729</u>

Interest is calculated through June 10, 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.
