

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
[Redacted],) DOCKET NO. 22906
)
)
Petitioner.) DECISION
)
_____)

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated January 27, 2010, asserting income tax, penalty, and interest in the total amount of \$86,931 for taxable years 2001 through 2007. Petitioner disagreed with the taxable income the Tax Discovery Bureau determined for each of the years. Petitioner stated he would file income tax returns that would accurately show his Idaho taxable income. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Tax Discovery Bureau (Bureau) received information that indicated Petitioner was required to file Idaho individual income tax returns. The Bureau searched the Tax Commission’s records and found that Petitioner had not filed Idaho income tax returns since taxable year 2001. The Bureau sent Petitioner a letter asking about his requirement to file Idaho income tax returns. Petitioner did not respond. The Bureau obtained additional information from the [Redacted] and other third party information. The Bureau determined Petitioner was required to file Idaho income tax returns, so it prepared income tax returns for Petitioner based upon the information available. The Bureau sent Petitioner a Notice of Deficiency Determination which Petitioner protested.

Petitioner acknowledged his requirement to file Idaho income tax returns but stated the Bureau's tax amount was incorrect. Petitioner stated he would submit returns beginning on May 15, 2010. He stated he needed time to get the returns prepared.

The Bureau allowed Petitioner the time he requested and a lot more. But when Petitioner failed to provide any income tax returns, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner contacted the Tax Commission and stated he has been out of work for several months. He stated all his tax papers were with his tax preparer but his tax preparer was reluctant to do any work without payment. Petitioner stated he thought he would be able to send in the returns a year at a time but it would take some time since he was not working and he had to pay for the returns as they are prepared. The Tax Commission agreed to allow Petitioner additional time to get his returns prepared and submitted.

Nearly a year passed without any further contact with Petitioner or returns being submitted. The Tax Commission contacted Petitioner and asked about his situation and the status of his income tax returns. Petitioner stated he just started a new job and thought he could have a return to the Tax Commission by September 2011. The Tax Commission agreed to extend the date; however, when Petitioner did not provide a return in September, the Tax Commission contacted Petitioner again but did not receive a response. Since Petitioner stopped communicating with the Tax Commission, the Tax Commission decided it was time to end the matter and render its decision. Therefore, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Petitioner did not argue that he was not required to file Idaho individual income tax returns. On the contrary, he acknowledged his requirement and stated he would submit income tax returns. In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). Petitioner did not meet his burden of proof.

The Tax Commission reviewed the returns the Bureau prepared, and considering the information available, the Tax Commission finds the Bureau's returns for 2005, 2006, and 2007 should be modified. The Bureau's 2005, 2006, and 2007 returns were based solely upon a credit application Petitioner completed to purchase a 2008 Ford pickup. On the application, Petitioner reported yearly gross income of \$250,000. Petitioner stated this was a misunderstanding by the loan officer. He stated he reported his annual gross income at \$50,000.

CONCLUSION

Considering the information from the earlier years, the Tax Commission is inclined to believe Petitioner's income was closer to \$50,000 than to \$250,000. The Tax Commission decided a more reasonable income determination for 2005, 2006, and 2007 is the amount of income as determined by the IRS for Petitioner's taxable year 2004. Therefore, the Tax Commission modified Petitioner's taxable income for 2005, 2006, and 2007 to the taxable income determined for 2004.

The Tax Commission found the returns prepared by the Bureau for taxable years 2001 through 2004 were reasonable based upon the information available. Therefore, the Tax Commission upholds the Bureau's determination for those years.

The Bureau added interest and penalty in accordance with Idaho Code sections 63-3045 and 63-3046 to Petitioner's Idaho tax. The Tax Commission reviewed those additions and found them appropriate as to the modified deficiency.

THEREFORE the Notice of Deficiency Determination dated January 27, 2010, and directed to [Redacted] is AFFIRMED as MODIFIED by this decision.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$ 506	\$ 127	\$ 289	\$ 922
2002	69	17	35	121
2003	103	26	47	176
2004	5,147	1,287	2,027	8,461
2005	5,120	1,280	1,708	8,108
2006	5,090	1,273	1,380	7,743
2007	5,057	1,264	1,016	<u>7,337</u>
			TOTAL DUE	<u>\$32,868</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.
