

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23503
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On September 1, 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 2002 and taxable years 2004 through 2008 in the total amount of \$43,335.

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.

Commission records showed the taxpayer was an Idaho resident who appeared to meet the Idaho individual income tax filing requirements. The Bureau attempted to contact the taxpayer for an explanation of why his 2002 and 2004 through 2008 Idaho individual 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 the [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 preliminary Idaho returns on behalf of the taxpayer and sent him a copy along with another letter, dated July 2, 2010, requesting the taxpayer submit actual returns for the years in question. The taxpayer responded stating that he agreed he owed the state of Idaho back taxes but not the amounts shown on the preliminary returns. The taxpayer also stated it would take some time to prepare actual returns and as a show of sincerity, sent a check for \$2,000.

When returns were not received an NODD was issued to the taxpayer. The NODD, dated September 1, 2010, was based on information obtained from [Redacted] and those records retained by the Commission.

The taxpayer protested the Bureau's determination. In his protest letter, dated October 26, 2010, the taxpayer again did not dispute the fact that he had a filing requirement, but requested additional time in which to complete returns. He also stated the NODD contained errors as he had incurred medical and business expenses that were not accounted for on the NODD. The taxpayer submitted another \$2,000 check with his appeal.

The Bureau acknowledged the taxpayer's appeal and the taxpayer was allowed another extension of time, until December 10, 2010, to submit returns. When the taxpayer did not deliver the returns to the Commission after the allowed time, their file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter advising him of his appeal rights.

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 filing status of Single was used to determine the taxpayer's Idaho income tax responsibility. 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.

An NODD 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 2002 and 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.

THEREFORE, the NODD dated August 31, 2010, and directed to [Redacted], is hereby AFFIRMED.

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>
2002	\$9,291	\$2,323	\$4,744	\$16,358
2004	3,926	982	1,562	6,470
2005	6,189	1,547	2,090	9,826
2006	854	214	235	1,303
2007	2,862	716	586	4,164
2008	6,523	1,631	917	9,071
			TOTAL	<u>47,192</u>
			LESS PAYMENT	<u>(12,000)</u>
			TOTAL DUE	<u>\$35,192</u>

Interest is calculated through May 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 _____ 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.
