

additional three months with no returns being submitted, 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's representative contacted the Tax Commission and stated Petitioner was gathering his tax information and that she just finished preparing Petitioner's 2010 income tax return. Petitioner's representative asked for additional time to prepare the missing returns. The Tax Commission agreed but asked that the returns be submitted before the current filing season began. Several months later, the Tax Commission still had not received the missing income tax returns from Petitioner. The Tax Commission contacted Petitioner's representative and she stated she had not heard from Petitioner for months. Seeing that Petitioner has had more than adequate time to provide the remaining tax returns, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3030 states that all resident individuals are required to file a return of income if they meet the filing threshold stated in Internal Revenue Code section 6012(a)(1). Petitioner's income exceeded that amount each year based upon reported sales, wages, and 1099 income.

Petitioner did not contest his requirement to file Idaho individual income tax returns. Petitioner may not have even disputed the amount of gross income as determined by the Bureau. However, Petitioner does dispute the expenses and deductions that were allowed or more properly not allowed by the Bureau. Petitioner stated he would provide income tax returns, and

he did provide half of the returns requested; however, as of the date of this Decision, Petitioner has not provided income tax returns for taxable years 2001, 2002, and 2003.

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 only partially met this burden.

In addition, deductions are a matter of legislative grace, and taxpayers bear the burden of proving they are entitled to the deductions claimed. INDOPCO, Inc. v. Commissioner, 503 U.S. 79, 84, 112 S. Ct. 1039, 117 L.Ed.2d 226 (1992); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, 54 S. Ct. 788, 78 L. Ed. 1348 (1934). Since Petitioner failed to provide any information or support for any expenses or deductions for the missing tax years, he must bear his misfortune that no expenses or deductions are allowed. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931).

The Bureau received and accepted Petitioner's Idaho income tax returns for taxable years 2000, 2004, and 2007. The Tax Commission reviewed those returns and agreed they are a better representation of Petitioner's taxable income for those years.

The Tax Commission also reviewed the returns the Bureau prepared for Petitioner for taxable years 2001, 2002, and 2003 and found them to be a reasonable representation of Petitioner's Idaho taxable income based upon the information available.

CONCLUSION

Petitioner received income in excess of the filing requirement threshold. He was required to file Idaho individual income tax returns. Petitioner provided some of the missing returns but failed to provide all the returns in question. The Tax Commission accepts the returns Petitioner

provided, subject to the normal review process of the Tax Commission, in lieu of the returns prepared by the Bureau for those years. However, because Petitioner did not provide anything contrary to the 2001, 2002, and 2003 returns the Bureau prepared, the Tax Commission upholds the Bureau's determination for those taxable years.

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

THEREFORE, the Notice of Deficiency Determination dated November 15, 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>
2000	\$ 69	\$ 17	\$ 43	\$ 129
2001	5,234	1,309	3,123	9,666
2002	5,967	1,492	3,176	10,635
2003	5,952	1,488	2,853	10,293
2004	0	0	0	0
2007	197	48	36	<u>281</u>
			TOTAL DUE	\$31,004
			LESS PAYMENTS	<u>(410)</u>
			BALANCE DUE	<u>\$30,594</u>

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

An explanation of the 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.
