

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24096
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On April 8, 2011, 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 2007 through 2009 in the total amount of \$9,021.

On June 10, 2011, the taxpayer filed a timely protest. 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 show the taxpayer is an Idaho resident who appears to meet the Idaho individual income tax filing requirements. The Bureau attempted to contact the taxpayer for an explanation of why his 2007 through 2009 Idaho returns had not been filed, but he did not respond to the inquiry.

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 in part:

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 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 protested the Bureau's determination. In his protest letter, dated June 10, 2011, the taxpayer stated the amounts owed were incorrect because he was married with one dependent child for taxable years 2007 through 2009. He also stated he had an appointment with a tax accountant to review and determine the correct amount owed.

The timely protest was acknowledged by the Bureau, and a date of July 18, 2011, was given to the taxpayer for completion of his returns. Numerous additional extensions of time were granted the taxpayer, but to date, no returns have been received.

When the taxpayer did not deliver the returns to the Commission after the allowed time, his file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter dated November 28, 2011, advising him of his appeal rights. A follow-up letter was sent by the policy specialist on January 13, 2012. The taxpayer responded but did not request a hearing. The taxpayer instead requested another extension of time in which to prepare actual returns. A final due date of March 2, 2012, was given to the taxpayer for completion of his returns. To date, no returns have been received. The time has come for the Commission to decide this matter.

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. Withholding in the amounts of \$1,589, \$1,503, and \$603 respectively, for taxable years 2007 through 2009 was allowed to offset the amount of tax due. The taxpayer stated in his appeal letter that he was married, with one dependent exemption for the years shown in the NODD. However, the Bureau used a filing status of Married, filing separate. The taxpayer did not make the election to file a married filing joint return with his wife for taxable years 2007 through 2009, and the Commission will not make the decision for him. Absent any information from the taxpayer, the Commission finds that the returns prepared by the Bureau properly reflect a filing status of married, filing separate. The taxpayer was allowed his personal exemption and standard deduction for married filing separate. The interest and penalty added by the Bureau pursuant to Idaho Code §§ 63-3045 and 63-3046 were reviewed and found to be proper and in accordance with Idaho Code.

An NODD issued by the 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 2007 through 2009 Idaho individual income tax returns. 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 April 8, 2011, and directed to [Redacted], is hereby AFFIRMED and MADE FINAL.

IT IS ORDERED 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>
2007	\$3,176	\$794	\$669	\$4,639
2008	263	66	39	368
2009	3,192	798	308	<u>4,298</u>
			TOTAL DUE	<u>\$9,305</u>

Interest is calculated through July 9, 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.