

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24119
[Redacted],)	
)	
Petitioner.)	DECISION
)	
_____)	

[Redacted]. (Petitioner) protested the Notice of Deficiency Determination dated March 4, 2011, asserting income tax, penalty, and interest in the total amount of \$166,796 for taxable years 2002 and 2004 through 2009. Petitioner disagreed with the taxable income determined by the Tax Discovery Bureau and stated it would provide the necessary returns. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioner failed to file Idaho corporate income tax returns for taxable years 1997 through 2001. The Tax Discovery Bureau (Bureau) worked Petitioner as a non-filer and, eventually, Petitioner filed its 1997 through 2001 Idaho income tax returns. The Bureau did a follow-up review of Petitioner and found Petitioner did not file 2002, 2004, 2005, 2006, 2007, 2008, and 2009 Idaho corporate income tax returns. Once again, the Bureau contacted Petitioner and reminded it of its requirement to file Idaho corporate income tax returns. Petitioner did not respond to the Bureau's inquiry, so the Bureau gathered information from Petitioner's permit-based tax filings, prepared income tax returns for Petitioner, and sent Petitioner a Notice of Deficiency Determination. Petitioner protested the Bureau's determination stating the Bureau's determination was in error and that it would be filing corporate income tax returns for the missing taxable years. Petitioner provided a copy of its 2002 return and stated it needed 90 days to get the rest of its returns prepared and filed. The Bureau acknowledged Petitioner's

protest, accepted the 2002 return, and due to the fact Petitioner was a repeat offender referred the matter for administrative review.

The Tax Commission sent Petitioner a letter giving it two options for having the Notice of Deficiency Determination redetermined. Petitioner asked for a telephone conference, which the Tax Commission accommodated. Petitioner stated it intended on providing income tax returns for the remaining years in question. Petitioner stated its returns were being prepared by a tax professional. The Tax Commission agreed to allow Petitioner additional time to submit its returns.

A couple of months passed and no returns were received, nor did Petitioner contact the Tax Commission. The Tax Commission attempted to contact Petitioner and left several messages. At one point, Petitioner called and left a message stating its returns would be done that week or the next. However, a month or two later, Petitioner still had not provided any returns. The Tax Commission sent Petitioner a letter setting a final date to provide the returns. Petitioner's tax preparer contacted the Tax Commission and stated she was waiting on information from Petitioner's bank but she should have at least the 2004 return done and to the Tax Commission in two weeks. Petitioner's tax preparer stated she would contact the Tax Commission the following week with an update. A couple of months later, the Tax Commission had still not received the 2004 return nor received an update from Petitioner's tax preparer.

The Tax Commission, believing Petitioner has had more than enough time to submit its returns, decided this matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3030 states every corporation transacting business in this state, authorized to transact business in this state, or having income attributable to this state, unless exempt from the tax imposed in this chapter shall file an Idaho income tax return. Petitioner did

not contest its requirement to file Idaho income tax returns. Petitioner's argument was that the Bureau's determination was incorrect, but Petitioner did not point out anything specific where the Bureau was wrong. Petitioner stated it would provide income tax returns, but as of this writing, no returns have been received.

In Idaho, a State Tax Commission deficiency determination is presumed correct, and the burden is on the taxpayer to show 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 failed to meet its burden. The Bureau determined Petitioner's taxable income from the sale/use tax returns Petitioner filed with the Tax Commission and the payroll information Petitioner reported [Redacted]. The Bureau also estimated Petitioner's cost of goods sold based upon the corporate income tax returns Petitioner filed for taxable years 2001 and 2003.

Deductions are a matter of legislative grace, and taxpayers bear the burden of proving that 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 business deductions, it must bear its misfortune that no deductions are allowed. Burnet v. Houston, 283 U.S. 223, 51 S. Ct. 413 (1931). The Tax Commission reviewed the returns the Bureau prepared for Petitioner and found they are a reasonable representation of Petitioner's taxable income.

CONCLUSION

Petitioner transacted business in Idaho during the years in question. Petitioner was required to file Idaho corporate income tax returns. Petitioner disagreed with the Bureau's

determination of its taxable income but failed to provide anything to the contrary. Therefore, the Tax Commission upholds the Bureau's determination.

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 March 4, 2011, and directed to [Redacted], is AFFIRMED AS MODIFIED.

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>
2004	\$19,054	\$4,764	\$7,630	\$ 31,448
2005	17,544	4,386	5,967	27,897
2006	18,081	4,520	5,015	27,616
2007	16,033	4,008	3,326	23,367
2008	10,278	2,570	1,473	14,321
2009	11,311	2,828	1,056	<u>15,195</u>
			TOTAL DUE	<u>\$139,844</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.
