

to save her W-2 for seven years and that time was up, so the statute of limitations had elapsed. The specialist stated in reply to this statement that he had included Idaho Code section 63-3068(d) explaining why the statute of limitations was still open. The specialist cited Idaho Code section 63-3068(d) which stated:

63-3068. Period of limitations for issuing a notice of deficiency and collection of tax. (d) In the case of a failure to file a return, for any reason, a notice of deficiency may be issued, the tax imposed in this chapter may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

The petitioner's third issue was that she had requested copies of refunds for years 2002, 2005, and 2006. The specialist stated the Commission had received the petitioner's 2007 income tax return and had attached page 1 of the return to show this. The specialist stated a refund of \$170 was generated from this return. The specialist stated the TDB was unable to provide the petitioner with copies of refunds for tax years 2005 and 2006 as the refunds were never generated because the petitioner's Idaho individual income tax returns were not received for those years. The specialist requested the petitioner file her missing Idaho individual income tax returns along with following information by August 19, 2010:

1. A complete copy of your 2001, 2002, 2005, and 2006 [Redacted] income tax returns.
2. Copies of all 2001, 2002, 2005, and 2006 W-2s.

The specialist stated if the petitioner's issues could not be resolved in the TDB, her file would be transferred to the Commission's Legal/Tax Policy Division.

On July 7, 2011, the tax policy specialist (policy specialist) sent the petitioner a letter to inform her of the alternatives for redetermining a protested NOD. The petitioner did not respond to this letter.

It is well settled in Idaho that an NOD issued by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioner to show that the tax deficiency is erroneous. Id. Since the petitioner has failed to meet the burden in this case, the Tax Commission finds that the amount shown due on the Notice of Deficiency Determination is true and correct.

[Redacted] The petitioner has not provided the Commission with a contrary result to the determination of her income [Redacted] Therefore, the Commission must uphold the deficiency.

THEREFORE, the Notice of Deficiency Determination dated May 24, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$230	\$58	\$117	\$ 405
2005	276	69	92	437
2006	256	64	69	<u>389</u>
			TOTAL DUE	<u>\$1,231</u>

Interest is computed through March 30, 2012, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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 _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____ 2011, 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.
