

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 25232 |
| [Redacted], |) | |
| |) | |
| Petitioner. |) | DECISION |
| _____ |) | |

On September 15, 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 2002 through 2006 and taxable years 2008 and 2009, in the total amount of \$7,216.

The taxpayer protested the NODD and subsequently submitted Idaho Individual income tax returns for taxable years 2005, 2006, and 2008. The returns were accepted as filed and the NODD was cancelled for those years. Taxable years 2005, 2006 and 2008 will not be addressed further in this decision. No information was submitted for taxable years 2002 through 2004 or taxable year 2009. The Commission, having reviewed the file, hereby issues its decision regarding those tax years.

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 through 2004 and 2009 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 [Redacted]. The information was provided in accordance with [Redacted] 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 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, the taxpayer stated that he disagreed with the NODD because he had withholdings from his Idaho wages that were not accounted for.

The Bureau acknowledged the taxpayer's appeal and per his request, provided him with income information along with tax booklets to assist him in the preparation of his returns. The taxpayer was also given additional time in which to prepare his returns. When he 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 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 those records retained by the Commission. The Bureau used the same filing status and adjusted gross income amounts reported by the taxpayer on his [Redacted] returns to determine the taxpayer's Idaho income tax responsibility. The taxpayer's withholding of \$177 for taxable year 2002 and \$202 for taxable year 2003 was allowed to offset a portion of the Idaho income tax due. 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 through 2004 and 2009 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 September 15, 2011, and directed to [Redacted], is hereby APPROVED and MADE FINAL.

IT IS ORDERED 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 | \$1,083 | \$271 | \$587 | \$1,941 |
| 2003 | 177 | 44 | 87 | 308 |
| 2004 | 64 | 16 | 27 | 107 |
| 2009 | 1,706 | 427 | 209 | <u>2,342</u> |
| | | | TOTAL DUE | <u>\$4,698</u> |

Interest is calculated through March 21, 2013

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.
