

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23647
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated October 14, 2010, issued by the Tax Discovery Bureau of the Idaho State Tax Commission proposing income tax, penalty, and interest for taxable years 1999 through 2006 in the total amount of \$24,023. Petitioner did not dispute that he owed tax for the years in question; he disagreed with the total amount of tax due, and the addition of penalty and interest. The Tax Commission reviewed the matter and hereby issues its decision.

BACKGROUND

In a review of the information the Tax Commission receives from various sources, the Tax Discovery Bureau (Bureau) found that Petitioner did not file an Idaho individual income tax return for taxable year 2006. The Bureau researched the Tax Commission’s records further and found Petitioner had not filed individual income tax returns as far back as taxable year 1999. The Bureau sent Petitioner a letter asking him about his requirement to file Idaho income tax returns. Petitioner did not respond. The Bureau obtained additional information from the [Redacted] and determined Petitioner was required to file Idaho income tax returns for taxable years 1999 through 2006.

The Bureau prepared returns for Petitioner and sent him a Notice of Deficiency Determination. Petitioner protested the Bureau’s determination. Petitioner stated he owed tax to the state of Idaho, but the amount owed was far less than the Bureau determined because of his

withholdings for taxable years 1999 through 2005. Petitioner stated he would get copies of his W-2 wage and tax statements from his employer, and prepare returns for the missing years. Petitioner asked for additional time to prepare his income tax returns. The Bureau allowed Petitioner additional time; however, even after several additional conversations with Petitioner, no returns were ever received. Consequently, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the case and sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner failed to respond, so the Tax Commission sent a follow-up letter to Petitioner. Petitioner and the Tax Commission traded telephone calls, but no actual contact was made. The Tax Commission left it to Petitioner to make contact, and as far as the Tax Commission knows, Petitioner has made no further attempts to contact the Tax Commission. Therefore, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3030 provides the income thresholds for filing Idaho individual income tax returns. In general, if an individual is required to file a [Redacted] income tax return, an Idaho income tax return is required as well. Petitioner filed [Redacted] income tax returns for taxable years 1999 through 2006. Therefore, if Petitioner was an Idaho resident or domiciled in Idaho during taxable years 1999 through 2006, Petitioner was required to file Idaho individual income tax returns.

Petitioner did not deny he had a requirement to file Idaho income tax returns for the years in question. Petitioner stated he had additional withholdings that the Bureau did not consider in

the returns it prepared for him. Petitioner also disagreed with the addition of interest and penalty to his tax.

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 stated he had additional withholdings that were not allowed, and even though the information obtained from the [Redacted] suggests Petitioner had state tax withholdings, Petitioner provided nothing to substantiate the additional withholdings. If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction or credit depends, no deduction or credit is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). The Tax Commission cannot simply allow a credit for withholdings that cannot be documented or verified. Petitioner did not meet his burden of proof.

The Bureau prepared returns for Petitioner based upon the income Petitioner reported on his [Redacted] income tax returns filed with the [Redacted]. The Tax Commission reviewed the returns the Bureau prepared and found that the returns are an accurate representation of Petitioner's Idaho taxable income. Therefore, the Tax Commission upholds the Bureau's determination of Petitioner's Idaho income tax liability.

The Bureau added interest and penalty to Petitioner's Idaho tax. Petitioner disagreed with those additions. Idaho Code section 63-3045(6) states that interest shall apply to deficiencies and shall be assessed at the same time as the deficiency. In Union Pacific Railroad Company v. State Tax Commission, 105 Idaho 471, 670 P.2d 878 (1983), the taxpayer contested the requirement to pay interest. The Court stated,

The general rule is that absent statutory authorization, courts have no power to remit interest imposed by statute on a tax deficiency. American Airlines, Inc. v.

City of St. Louis, 368 S.W.2d 161 (Mo. 1963); see generally 85 C.J.S. Taxation, § 1031(c) (1954). We agree with the State that I.C. § 63-3045(c) is clear and unequivocal when it states that ‘interest ... shall be assessed’ and ‘shall be collected.’ This section is not discretionary, but rather, it is mandatory. Following the language of this section we hold that this Court, as well as the district court, lacks any power to remit the interest that is mandated by the statute.

Therefore, the Tax Commission upholds the addition of interest to Petitioner’s tax deficiency.

The Bureau also added the failure to file penalty of Idaho Code section 63-3046(c)(1). Since Petitioner did not file his income tax returns on or before the due dates of the returns and he has not shown reasonable cause for not timely filing his income tax returns, the Tax Commission finds the addition of the penalty appropriate.

CONCLUSION

Petitioner was required to file Idaho individual income tax returns for taxable years 1999 through 2006. Petitioner failed to show the taxable income as determined by the Bureau was incorrect or to document the amount of his withholdings. Therefore, the Tax Commission hereby upholds the Notice of Deficiency Determination.

THEREFORE, the Notice of Deficiency Determination dated October 14, 2010, and directed to [Redacted], is hereby AFFIRMED.

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>
1999	\$ 238	\$ 60	\$ 185	\$ 483
2000	1,024	256	713	1,993
2001	3,206	802	1,987	5,995
2002	2,117	529	1,176	3,822
2003	2,040	510	1,025	3,575
2004	1,957	489	866	3,312
2005	2,417	604	924	3,945
2006	1,513	378	483	<u>2,374</u>
			TOTAL DUE	<u>\$25,499</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 _____ 2013.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2013, 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.
