

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [Redacted],) DOCKET NO. 25175
)
)
 Petitioner.) DECISION
)
)
 _____)

The Idaho State Tax Commission’s (Commission) Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable year 2010 in the total amount of \$1,031. The petitioner filed a timely petition for redetermination (petition). The petitioner was informed of his appeal rights. The Commission, having reviewed the file, hereby issues its decision.

The Commission’s collection bureau initially sent the petitioner a letter requesting that the petitioner file an Idaho income tax return for taxable year 2010. When no response was received, the account was referred to the TDB.

TDB reviewed the information available and on January 26, 2011, issued the NODD. Attached to the NODD was an explanation that the petitioner was required to file an Idaho income tax return for taxable year 2010 due to the following receipts of income:

<u>Form</u>	<u>Description</u>	<u>2010</u>
W-2	[Redacted]	\$4,737
W-2	[Redacted]	13,107
1099-G	Idaho Unemployment	<u>14,319</u>
Total		<u><u>\$32,163</u></u>

The aforementioned income information that the TDB used in its NODD agrees with the information contained on the W-2 and 1099-G forms that the petitioner subsequently provided to the TDB.

When calculating the petitioner's Idaho taxable income, the TDB allowed the petitioner a \$3,650 personal exemption deduction and a \$5,700 standard deduction. After taking into consideration the deductions allowed, the petitioner's tax liability as calculated by the TDB was \$1,461 of tax plus the ten dollar permanent building fund tax for a total tax liability of \$1,471. Based upon the petitioner's W-2 information, the \$1,471 was offset by \$671 of Idaho withholding leaving a tax due of \$800. To that amount, the TDB applied an Idaho Code section 63-3046(c) 25% penalty, totaling \$200, plus \$31 of interest for a proposed total amount due of \$1,031.

The petitioner filed a timely petition on February 11, 2011. In the petition, the petitioner acknowledged having received the income reflected above but argued that:

Unemployment Compensation Is Already Taxed. Both At The Employee And Employer Level. Why Should I Be Taxed Again For Funds I & My Employer Have Already Paid Or Had Withheld. Ethically And Morally Incorrect Wouldn't You Say.

Why Hasn't The Dept. Of Labor Seen Their Way Clear To Provide You With Legal Action Against Me For Re-Payment Of 17,000.00 + Of Unemployment Compensation. These Actions Have Been Upheld & Approved By All Means Available To Them. So Then Why Again Would I Pay A Tax On Funds That Have Legally (?) Been Awarded Back To Them.

Finally, I Will File My 2010 & 2011 Taxes Together Within The Next 30 Days. I Believe You Will Find The Debt Is Owed By The State Not Me. I Will Not Include The \$14,000 + Unemployment Funds In My Totals.

On February 15, 2012, the TDB responded to petitioner by explaining that the Commission does not have any information on the petitioner's repayment of unemployment during taxable year 2010, and that the petitioner would be able to deduct the repayment in the year in which the repayment was made. As noted by the TDB, the petitioner should have received documentation verifying the repayment of the unemployment and that the

documentation should be attached to the tax return for the year of the repayment when claiming a deduction.

Since the petitioner did not file an actual return for taxable year 2010, nor provide the TDB with documentation of any repayment of unemployment benefits during taxable year 2010, the TDB submitted the petitioner's petition into the Commission's administrative appeals process for resolution.

In September 2012, the petitioner was informed of his appeal rights. On October 25, 2012, the petitioner responded with the following:

I Have Sent You All Records That I Have Available.

My Argument Lies Solely On The Fact That Unemployment Benefits Are Not To Be Considered Income.

I Have Paid For Benefits For 48 Years Each Time I Received A Paycheck Over Those Years. It Was Money Deducted From My Pay, Plus Whatever My Employer Paid In. This Was Never Money Gifted By The State Of Idaho.

With The Above In Mind. I Have Now Been Paying The State Back For What They Consider Was Not Due Me. I Feel They Are Wrong, But After Exhausting All Avenues I Have Been Told I Am Wrong And Owe The State All Funds Paid To Me From Nov. 2009 To Sept. 2010. 17,000 + Dollars.

Why Should I Be Penalized Twice? Having To Pay Back Funds Due Me And Now The State Wants To Tax Me.

I Cannot See Where There Is Any Justice Or Fairness In The States Stand Regarding My Situation.

As mentioned above, the petitioner has not provided any documentation to show a repayment of any unemployment benefits during 2010. The petitioner **may** be entitled to a deduction for repayments subsequent to 2010; however repayments paid subsequent to 2010 do not impact the Idaho income tax liability for 2010. Therefore, as of the date of this decision, the petitioner has not provided any information that would resolve this case in the petitioner's favor for

taxable year 2010. It is the petitioner's burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State Dept. of Revenue, 106 Idaho 810, 814, (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574 (Ct. App. 1986). Since the petitioner has not met this burden of proof showing that the NODD prepared by the TDB is incorrect, the Commission upholds the TDB's determination for taxable year 2010 with one modification. Although not raised as an issue in the petition, the petitioner is entitled to at least \$50 of grocery credit and the NODD is hereby modified to reflect a \$50 grocery credit reducing the amount of additional tax due from \$800 to \$750.

THEREFORE, the NODD dated August 9, 2011, and directed to petitioner, is MODIFIED, 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>
2010	\$750	188	24	\$962

Interest is calculated through January 31, 2013, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6)(c).

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.
