

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 25229 |
| [Redacted], |) | |
| |) | |
| Petitioner. |) | DECISION |
| _____ |) | |

On November 10, 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 2005, 2006, 2008, and 2009 in the total amount of \$6,726.

On December 31, 2011, the taxpayer filed a timely protest. He requested an informal hearing which was conducted by telephone on November 13, 2012. The Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Commission records show the taxpayer is an Idaho resident who appears to meet the Idaho individual income tax filing requirements. The Bureau attempted to contact the taxpayer for an explanation of why his 2005, 2006, 2008, and 2009 Idaho returns had not been filed, but he did not respond to the inquiry.

The Bureau requested and received a transcript of the taxpayer's [Redacted] income records from [Redacted]. The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

Idaho Code § 63-3045(1)(a) states in part:

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] those records retained by the Commission.

The taxpayer protested the Bureau's determination. In his protest letter, the taxpayer stated he has been married since 2007; he and his wife are recovering addicts and they want to get this matter resolved. The taxpayer also stated they planned to hire a tax professional and file returns by January 15, 2012.

The timely protest was acknowledged by the Bureau, and a date of April 20, 2012, was given to the taxpayer for completion of his returns. To date, no returns have been received.

When the taxpayer 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 responded to the letter advising him of his appeal rights and an informal hearing was held. The taxpayer did not provide any additional documentation for the Commission's consideration but did once again indicate during the informal hearing that he intended to file actual returns.

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 the records retained by the Commission. The taxpayer's withholding of \$1,052, \$251, and \$136 for taxable years 2006, 2008, and 2009, respectively, was allowed to offset a portion of the Idaho income tax due. In the absence of a Married, filing joint federal return, the Bureau used a filing status of single, with one personal exemption. 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.

A Notice of Deficiency Determination 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 2005, 2006, 2008, and 2009 Idaho individual income tax returns. Absent information to the contrary, the Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for those years.

THEREFORE, the Notice of Deficiency Determination dated November 10, 2011, and directed to [Redacted], is hereby APPROVED and MADE FINAL.

IT IS ORDERED that the taxpayer pay the following tax, penalty, and interest:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|----------------|
| 2005 | \$2,305 | \$576 | \$861 | \$3,742 |
| 2006 | 201 | 50 | 62 | 313 |
| 2008 | 1,106 | 277 | 196 | 1,579 |
| 2009 | 958 | 240 | 122 | <u>1,320</u> |
| | | | TOTAL DUE | <u>\$6,954</u> |

Interest is calculated through May 15, 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 _____ 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.
