

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
[Redacted],) DOCKET NO. 25377
)
)
Petitioner.) DECISION
)
_____)

BACKGROUND

On February 14, 2012, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted](Petitioner) proposing income tax, penalty, and interest for taxable years 2007 through 2010 in the total amount of \$34. On April 17, 2012, the Petitioner filed a timely protest. After several delays the Petitioner filed his 2007 and 2008 returns on July 3, 2012, and paid the \$34 due. A letter was sent to modify the NODD by removing the 2007 and 2008 years, on November 8, 2012. The \$20 minimum payment has been paid for each year through 2011. The S-corporation income tax returns have not been filed beyond the 2008 year. The balance due remaining for income tax, penalty, and interest for taxable years 2009 and 2010 is \$0, however the returns are still unfiled. The file was transferred to the Tax Policy Section on June 1, 2012, for resolution.

DISCUSSION

This is a non-filer case. The Petitioner did not file the Idaho corporation income tax returns for taxable years 2006 through 2010. The Bureau sent the Petitioner a letter, dated August 1, 2011, notifying him of the missing returns.

On March 5, 2013, the Commission sent the taxpayer a letter that explained the methods available for redetermining an NODD. The Petitioner requested an extension of time through April 30, 2013. No returns have been received since.

LAW AND ANALYSIS

Idaho Code section 63-3030 requires that every corporation which is transacting business in this state or having income attributable to this state, must also file an Idaho corporation income tax return.

Idaho Code section 63-3068(a) establishes a statute of limitations requiring a notice of deficiency to be “issued within three (3) years from either the due date of the return, without regard to extensions, or from the date the return was filed, whichever is later.” However, there is no statute of limitations when no return was filed. Idaho Code section 63-3068(d) states:

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.

CONCLUSION

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 Petitioner failed to file his 2009 and 2010 Idaho corporation income tax returns. The Commission contacted the Petitioner numerous times and requested the return be filed. Having presented no information in support of his position, the Petitioner has failed to meet his burden of proving error on the part of the deficiency determination.

THEREFORE, the Notice of Deficiency Determination dated February 15, 2012, corrected on July 25, 2012, and directed to [Redacted] is hereby AFFIRMED.

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.
