

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 25739
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On October 31, 2012, the Tax Discovery Bureau (TDB) 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 2004 through 2006 in the total amount of \$28,724.

A timely protest and petition for redetermination was filed by the taxpayer on January 2, 2013. An informal hearing has not been requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NODD.

The taxpayer, on May 25, 2005, signed an Idaho Business Registration form for the [Redacted]. The taxpayer indicated on the form that the business was incorporated in Wyoming, that he was the president, and that he owned 100 percent of the business. The taxpayer was issued an Idaho sales tax permit for the business on April 1, 2004, and an Idaho withholding permit on May 1, 2005. Both permits were active until they were cancelled on March 31, 2008.

The [Redacted]. was registered with the Idaho Secretary of State on October 9, 2007, indicating it was incorporated in Wyoming. The taxpayer was listed as president and registered agent. This registration was withdrawn by the taxpayer on April 1, 2008, and in its place, the taxpayer registered the [Redacted].

Based on information available to the Bureau, no [Redacted] corporate income tax returns for taxable years 2004 through 2006 had been filed. The only known state or [Redacted] income tax

filing for the [Redacted] is the schedule C included in the taxpayer's 2007 Idaho and [Redacted] individual income tax returns. The Bureau has no record the entity has ever filed a corporate tax return.

On December 7, 2010, the TDB sent the taxpayer a letter notifying him that the Commission's records indicated that Idaho income tax returns had not been filed for taxable years 2004 through 2006. The taxpayer responded, stating he was not required to file income tax returns in Idaho because he had no net earnings for Idaho, and lived in [Redacted]. The TDB sent another letter of inquiry on October 18, 2011; a letter informing the taxpayer he had income in excess of the Idaho filing requirement on May 15, 2012; and a preliminary Notice of Deficiency Determination on August 6, 2012. The taxpayer responded only to the preliminary notice stating he needed additional time in which to prepare returns. The TDB allowed the taxpayer the additional time requested, but when returns were not submitted as promised, the TDB issued a Notice of Deficiency Determination (NODD) on October 31, 2012, which the taxpayer protested.

The taxpayer's protest letter dated January 2, 2013, stated the income shown on the NODD was reported under a C Corporation and the C Corporation should be liable for the state income tax. The taxpayer further stated that if the corporate tax shelter does not apply, he would need additional time to obtain paperwork to create correct numbers for correct and fair tax returns for taxable years 2004 through 2006. The TDB retained the file until May 31, 2013 awaiting returns from the taxpayer. When the returns did not arrive, the taxpayer's file was forwarded to the Commission's Legal/Tax Policy Division for administrative review.

On June 19, 2013, the Tax Policy Specialist sent the taxpayer a hearing rights letter to inform him of the alternatives for redetermining a protested NODD. The taxpayer did not respond. A follow-up letter was sent on July 30, 2013. The taxpayer responded on August 14, 2013,

informing the policy specialist that he had a meeting with his accountant on August 27, 2013, and would be back in contact after that meeting with an expected date of completion for the missing returns. To date, no returns have been received and the taxpayer has not maintained contact with the Commission. The Commission, believing the taxpayer has had more than an adequate amount of time in which to submit returns, hereby issues its decision based on the information presently in the file.

The taxpayer had an active sales/use tax permit under the “[Redacted].” during the years in question. Sales/Use tax reports submitted by the taxpayer were used by the TDB to estimate Idaho income and the resulting Idaho income tax due for taxable years 2004 through 2006.

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). It is the taxpayer’s responsibility, and the burden rests upon them to disclose their receipts and claim their proper deductions. United States v. Ballard, 535 F.2d 400 (1976). The Commission recognizes that the taxpayer may have had business expenses to offset the income; yet, if the taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and the taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Since the taxpayer failed to meet this burden, the Commission finds the adjusted gross income amount for taxable years 2004 through 2006, prepared by the TDB, is a reasonable representation of the taxpayer’s Idaho adjusted gross income based upon the information available. Therefore, the Commission must uphold the deficiency.

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.

THEREFORE, the Notice of Deficiency Determination dated October 31, 2012, 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>
2004	\$ 2,416	\$ 604	\$1,103	\$ 4,123
2005	10,927	2,732	4,328	17,987
2006	4,540	1,135	1,514	<u>7,189</u>
			TOTAL DUE	\$29,299

Interest is computed through February 14, 2014.

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.  
  
\_\_\_\_\_