

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 25745
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On January 3, 2013, 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 2002 through 2011 in the total amount of \$18,867.

On March 6, 2013, the taxpayer filed a timely protest. He did not request a hearing. 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 2002 through 2011 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 the [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:

**63-3045. 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 first class 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 the [Redacted] and those records retained by the Commission.

The taxpayer protested the Bureau's determination. The protest letter, dated March 4, 2013, simply requested an extension of time be granted to determine the actual tax liability for the years shown on the NODD. The letter also stated a power of attorney form had been sent to an independent tax consultant, but due to her heavy workload, she would not be able to begin preparing returns until after May 15, 2013. The Bureau acknowledged the taxpayer's appeal, and allowed the taxpayer another 30 days in which to submit 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 did not respond to a letter advising him of his appeal rights. The Commission, believing the taxpayer has had more than adequate time in which to submit returns, hereby issues its decision modifying the NODD.

The Idaho resident individual income tax return the Bureau prepared on behalf of the taxpayer was based on income information gleaned from the taxpayer's [Redacted] income records and the records retained by the Commission. Withholding in the amount of \$1,071, \$1,097, \$1,599, and \$862 was identified for taxable years 2011, 2010, 2009, and 2005 respectively, and allowed to offset a portion of the Idaho income tax due for those years. No withholding was identified by the Bureau for the other years shown on the NODD. Because the

taxpayer maintained the same employer, [Redacted], and had [Redacted] withholding for all years shown on the NODD, the Commission believes Idaho withholding may exist for the other years. Therefore, the Commission used a formula to estimate a reasonable amount of withholding for those years. Withholding in the amounts of \$1,405, \$1,035, \$914, \$1,205, \$1,146, and \$1,151 for taxable years 2008, 2007, 2006, 2004, 2003, and taxable year 2002, respectively, was allowed to offset a portion of each year's tax due. The formula was based on known withholding amounts from W-2s issued in taxable years 2011, 2010, 2009, and 2005. The Commission also modifies the NODD for taxable years 2009 through 2011 to allow the taxpayer the grocery credit.

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.

The taxpayer failed to file his 2002 through 2011 Idaho individual income tax returns. Absent information to the contrary, the Commission accepts, as modified, the Bureau's calculation of Idaho income tax, penalty, and interest for those years.

THEREFORE, the Notice of Deficiency Determination dated January 3, 2013, is hereby modified and as MODIFIED, is 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>
2002	\$584	\$146	\$326	\$1,056
2003	444	111	226	781
2004	490	123	220	833
2006	360	90	116	566
2007	485	121	121	727
2008	599	150	113	862
2009	422	106	59	587
2010	540	135	50	725
2011	489	122	26	<u>637</u>
			TOTAL DUE	\$6,774

Interest is calculated through October 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.  
  
\_\_\_\_\_