

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
[Redacted],) DOCKET NO. 25746
)
)
Petitioner.) DECISION
)
_____)

On January 29, 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 2005 in the total amount of \$15,705.

The taxpayer submitted a letter to the Bureau on March 29, 2013, which stated he did not protest the NODD for taxable years 2002 through 2004. Because the taxpayer had no objections to the provisional returns prepared by the Bureau for taxable years 2002 through 2004, these returns were posted and will not be addressed further in this decision. The taxpayer's letter did state that he did not agree with the amount of Idaho taxable income and subsequent amount of Idaho tax due shown on the NODD for taxable year 2005. The taxpayer has not submitted an Idaho income tax return for taxable year 2005, or any other information for the Commission's consideration. The Commission, having reviewed the file, hereby issues its decision regarding taxable year 2005.

Commission records showed the taxpayer was an Idaho resident who appeared to meet the Idaho individual income tax filing requirements. The Bureau attempted to contact the taxpayer for an explanation of why his 2005 Idaho individual income tax return had not been filed, but he did not respond to the inquiries.

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:

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 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 return 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. In his protest letter, the taxpayer stated that he disagreed with the NODD because he did not receive the amount of income shown on the NODD. The income consisted of 1099-miscellaneous income, gross proceeds from the sale of property reported on Form 1099-S, and W-2 income. The taxpayer did not disagree with the income shown on the W-2, but stated he had expenses to offset the 1099-miscellaneous income, and a cost basis in the property he sold that would reduce the amount of his gross proceeds.

The Bureau acknowledged the taxpayer's appeal and gave him additional time in which to prepare his 2005 Idaho individual income tax return. When he did not deliver the return to the Commission after the allowed time, his file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer responded to a letter advising him of his appeal rights and

appeared for an informal conference. However, the taxpayer did not provide any additional documentation at the informal, and to date, has not submitted an Idaho income tax return for taxable year 2005.

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 those records retained by the Commission. In the absence of a [Redacted] income tax return to indicate otherwise, the Bureau used a filing status of single with no dependent exemptions. No withholding could be identified. 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.

An NODD 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 Idaho individual income tax returns. Having presented no information in support of his argument, the taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Absent information to the contrary, the Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for taxable year 2005.

THEREFORE, the NODD dated January 29, 2013, and directed to [Redacted], is hereby APPROVED and MADE FINAL.

IT IS ORDERED 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	\$6,540	\$1,635	\$2,572	\$10,747

Interest is calculated through January 9, 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.
