

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25243
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

The Idaho State Tax Commission’s (Commission) Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable years 2008 and 2009, in the total amount of \$65. The petitioner filed a timely petition for redetermination (petition). The petitioner was informed of its appeal rights. The petitioner did not request an informal hearing or provide any additional information subsequent to the issuance of the Commission’s hearing rights letter. The Commission, having reviewed the file, hereby issues its decision.

In August 2011, the TDB initiated contact with the petitioner, notifying it that the Commission has not received its Idaho S corporate income tax returns for taxable years 2008 and 2009. In September 2011, and again in December 2011, the TDB issued letters to the petitioner requesting that the petitioner file its Idaho 2008 and 2009 income tax returns. Attached to the December correspondence sent to the petitioner was a preliminary calculation of the petitioner’s Idaho income tax liability, which was based upon information available to the TDB.

Since the petitioner did not file the requested Idaho income tax returns, in 2012, the TDB issued the NODD. In arriving at the petitioner’s gross receipts for taxable year 2008, the TDB averaged the gross receipts reported by the petitioner for taxable years 2006 and 2007. For taxable year 2009, the TDB increased the amount of gross receipts for taxable year 2008 by five percent. In calculating the petitioner’s ordinary income for taxable years 2008 and 2009, the

TDB allowed, as a deduction, the petitioner's payroll costs as reported to the Idaho Department of Labor for 2008 and 2009. Additionally, the TDB estimated the amount of the petitioner's cost of goods sold for taxable year 2008, based upon an average of the amounts reported for taxable years 2006 and 2007. For taxable year 2009, the TDB increased the 2008 cost of goods sold amount by five percent. See Table 1 (Exhibit A) below for the calculation of the petitioner's Idaho income tax. Interest was asserted in accordance with Idaho Code section 63-3045(c)(1). Penalty was asserted in accordance with Idaho Code section 63-3046(c)(1), for failure to file an Idaho income tax return.

The petitioner filed a petition for redetermination in which it stated "I don't agree with the Notice of Deficiency Determination. I have not filed 2008-2009 taxes as of yet. The(sic) are ready to be sent, but waiting on a form from the [Redacted]. When it arrives, I will send 2008-2009 tax form."

The petitioner was informed of its appeal rights. As of the date of this decision, the petitioner has not filed its Idaho income tax returns for taxable years 2008 and 2009, or provided any information to show that the TDB's calculations are in error. It is the petitioner's burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State Dept. of Revenue, 106 Idaho 810, 814, (1984); Parsons v. Idaho State Tax Comm'n, 110 Idaho 572, 574 (Ct. App. 1986). Since the petitioner has not met this burden of proof, the Commission upholds the TDB's determination relating to taxable years 2008 and 2009.

THEREFORE, the NODD dated February 8, 2012, and directed to the petitioner is hereby AFFIRMED by this decision.

IT IS ORDERED that the petitioner pay the following amount of tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL DUE</u>
2008	\$20	\$10	\$4	\$34
2009	20	10	3	<u>33</u>
			Total Due	<u>\$67</u>

Interest is calculated through April 30, 2014, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.

TABLE 1

	2008	2009
Gross Receipts (estimated)	\$403,042	\$383,850
Idaho Dept. Labor wages	-9,388	-16,584
Cost of Goods Sold (estimated)	-266,007	-253,341
Income to be reported by owners	<u>-127,647</u>	<u>-113,925</u>
Idaho Code section 63-3022L taxable income	<u>\$0</u>	<u>\$0</u>
Idaho Income Tax (minimum tax) per NODD	\$20	\$20