

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 31146
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On May 1, 2013, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income taxes, penalties, and interest for taxable years 2007 and 2008 in the total amount of \$4,505.

On July 3, 2013, the taxpayer filed a timely appeal and petition for redetermination. The Commission has made numerous attempts to contact the taxpayer to allow him the opportunity to provide the missing tax returns or any additional information. In a telephone conversation with the taxpayer on October 1, 2013, he indicated that he would have the returns filed by October 4, 2013. The returns were not filed and a subsequent telephone conversation with the taxpayer indicated that he would have the returns filed by January 8, 2014. No returns have been received to date. The Commission, having reviewed the file, hereby issues its decision.

When the Bureau could not find any record of the taxpayer's 2007 and 2008 Idaho individual income tax returns, the taxpayer was sent a letter advising him of the missing returns and asking him for an explanation. The taxpayer did not respond.

The Bureau requested, and received, income information from the [Redacted] in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077. Those records indicated that the taxpayer's income for the years in question exceeded the filing requirements of Idaho Code § 63-3030. Because the taxpayer did not file his state income tax returns, the Bureau

prepared provisional returns and issued an NODD. The NODD was based on information obtained from the [Redacted] and records retained by the Commission. The taxpayer protested the Bureau's determination. The taxpayer stated in his appeal letter that he has itemized deductions and a spouse that would reduce the tax owed. To date, no returns have been received for the aforementioned years.

The Idaho resident individual income tax returns the Bureau prepared on behalf of the taxpayer were based on income information obtained from the taxpayer's [Redacted] income records and the records retained by the Commission. The filing status of single was used to determine the taxpayer's Idaho income tax responsibility. The Bureau determined the amount of Idaho income tax due based on W-2 and 1099 information. Withholding was allowed to offset the amount of Idaho income tax due.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer did not meet his burden. The taxpayer stated that he had deductions to offset the Bureau's income figures. However, it is the taxpayer's responsibility, and the burden rests upon him to claim his proper deductions. United States v. Ballard, 535 F.2d 400 (1976). Since the taxpayer failed to meet his burden, the Commission finds the adjusted gross income amount for taxable years 2007 and 2008, prepared by the Bureau, is a reasonable representation of the taxpayer's Idaho adjusted gross income based upon the information available.

The taxpayer has provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable years 2007

and 2008. Therefore, the Commission upholds the Bureau's determination of the taxpayer's Idaho taxable income.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated May 1, 2013, and directed to [Redacted], is hereby APPROVED and MADE FINAL.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$1,491	\$373	\$429	\$2,293
2008	1,585	396	358	<u>2,339</u>
			TOTAL DUE	<u>\$4,632</u>

Interest is calculated through October 15, 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 _____ 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.
