

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 38967 |
| [Redacted], |) | |
| |) | |
| Petitioner. |) | DECISION |
| _____ |) | |

On April 5, 2012, 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, 2008, and 2009, in the total amount of \$10,138.

On July 3, 2012, 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.

When the Bureau could not find any record of the taxpayer's 2007, 2008, and 2009, 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. In a telephone conversation with the taxpayer on December 6, 2012, he indicated that he had faxed the returns over a month ago. On December 17, 2012, the taxpayer indicated that he would email the 2009 return. In a telephone conversation with the taxpayer on June 18, 2013, he indicated that he was waiting on the [Redacted] to process the returns he submitted to them. On April 14, 2014, an email was sent requesting the status of the returns. No returns have been received to date. The Commission, having reviewed the file, hereby issues its decision.

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 believes the amount he owes is different than the amount assessed.

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 believes the amount that he is responsible for is different than the amount determined by the Tax Commission. 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, 2008, and 2009, 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 tax years 2007, 2008, and 2009. 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 April 5, 2012, 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 | \$2,378 | \$ 595 | \$ 712 | \$ 3,685 |
| 2008 | \$3,379 | \$ 845 | \$ 790 | \$ 5,014 |
| 2009 | <u>\$1,459</u> | <u>\$ 365</u> | <u>\$ 269</u> | <u>\$ 2,093</u> |
| | <u>\$7,216</u> | <u>\$1,805</u> | <u>\$1,771</u> | <u>\$10,792</u> |

Interest is calculated through December 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.
