

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 26080
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

[Redacted] (Petitioner) failed to file individual tax returns for the years 2006 through 2008. The Bureau sent Petitioner a Notice of Deficiency Determination (NODD) dated January 4, 2013. The NODD asserted Petitioner owed income tax, penalty, and interest in the total amount of \$20,210 for taxable years 2006 through 2008. Petitioner disagreed with the tax liability assessed by the Bureau and filed a timely appeal. Petitioner filed his individual income tax return for 2006. However, Petitioner failed to file tax returns for taxable years 2007 and 2008; Petitioner now has a tax liability of \$14,926 in tax, penalty, and interest for taxable years 2007 and 2008. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Tax Commission records show Petitioner was an Idaho resident who appeared to meet the Idaho individual income tax filing requirements. The Bureau first attempted to contact Petitioner on March 19, 2012, and requested Petitioner file Idaho individual income tax returns for taxable years 2006, 2007, and 2008. Petitioner failed to respond to the request, and the Bureau continued to attempt to contact Petitioner without response.

When the Bureau determined that Petitioner was not going to file the requested Idaho income tax returns, [Redacted]. Based on information obtained from [Redacted] and the records retained by the Tax Commission, the Bureau prepared the missing Idaho tax returns on behalf of Petitioner. The Bureau sent Petitioner an NODD on January 4, 2013, asserting Petitioner owed

income tax, penalty, and interest in the total amount of \$20,210 for taxable years 2006 through 2008.

Petitioner disagreed with the tax liability assessed by the Bureau and filed a timely appeal on March 7, 2013. In his protest letter, Petitioner did not dispute the fact that he had a filing requirement but instead requested additional time in which to complete the returns. Petitioner also stated he was working with an accountant to prepare the tax returns and believed that his tax liability would be different from the amount asserted by the Bureau.

On May 18, 2013, [Redacted], CPA, filed the 2006 Idaho income tax return on behalf of Petitioner. In his cover letter, Mr. [Redacted] stated that he hoped to have the 2007 and 2008 returns completed by May 24, 2013. To date, the 2007 and 2008 returns have not been received by the Tax Commission.

When Petitioner did not provide the 2007 and 2008 Idaho individual income tax returns to the Tax Commission as agreed, his file was transferred to the Legal/Tax Policy Division on December 2, 2013, for administrative review. On June 24, 2014, the Tax Commission sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner did not respond, so the Tax Commission decided the matter based upon the information available.

#### LAW AND ANALYSIS

The Idaho resident individual income tax returns the Bureau prepared on behalf of Petitioner were based on income information gleaned from Petitioner's [Redacted] income records and the records retained by the Tax Commission. A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on Petitioner to show the

deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984). The NODD determined that income tax of \$5,714 was due for 2007 and income tax of \$3,891 was due for 2008. 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.

#### CONCLUSION

Petitioner failed to file Idaho individual income tax returns for 2007 and 2008. Absent information to the contrary, the Tax Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for those years.

THEREFORE, the Notice of Deficiency Determination dated January 4, 2013, and directed to [Redacted] is hereby MODIFIED, and as MODIFIED, is APPROVED, and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$5,714	\$1,429	\$1,883	\$ 9,026
2008	3,891	973	1,037	<u>5,901</u>
			TOTAL DUE	<u>\$14,927</u>

Interest is calculated through September 30, 2015.

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 \_\_\_\_\_ 2015.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2015, 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.  
  
\_\_\_\_\_