

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 26082
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On March 14, 2013, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (Petitioner) proposing income tax, penalty, and interest for taxable years 2007 through 2009 in the total amount of \$4,662. Of this total amount, \$815 is the failure to file or delinquency penalty. Petitioner protested the delinquency penalty assessed in the NODD.

Petitioner filed a timely protest. He did not request an informal conference and has not provided any additional information for consideration. Therefore, the Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

The Commission had no record of Petitioner filing Idaho individual income tax returns for taxable years 2007, 2008, and 2009. The Bureau sent Petitioner a letter advising him of the missing returns and asked him to file the missing returns. Petitioner did not respond to this initial letter. The Bureau obtained a transcript of Petitioner’s [Redacted]. The information was provided in accordance with Internal Revenue Code § 63-6103(d) and Idaho Code § 63-3077.

Because Petitioner did not respond, the Bureau prepared provisional income tax returns and issued an NODD, which included the delinquency penalty for each year. On May 16, 2013, the Bureau received a letter of protest from Petitioner. Petitioner explained his letter was a written notice of his decision to appeal the imposed penalty. Petitioner indicated that he would follow up further with a written explanation. However, the Commission has yet to receive any

explanation from Petitioner. The Commission acknowledges the penalty was assessed each year in conformity with Idaho Code § 63-3046. When a return is not filed on or before the due date, Idaho Code § 63-3046(c)(1) permits a penalty of five percent of the tax due to be added for each month after the due date until the return is filed. In addition, such penalty will be added each month, but shall not exceed 25 percent of the tax due on the return. Idaho Code § 63-3046(g). Here, Petitioner did not file a return for 2007, 2008, and 2009; therefore, a five percent penalty was applied to each of his non-filed returns for each month he did not file. The penalty added was 25 percent of the tax due each year.

On June 30, 2014, the Commission sent Petitioner a hearing rights letter explaining the options available for redetermining the NODD. Petitioner did not respond. Since Petitioner did not respond to the hearing rights letter and did not provide an explanation as stated in his protest letter, the Commission now uses the information it has in its file to make a decision.

The information shows that Petitioner was required to file a return for taxable years 2007, 2008, and 2009. Petitioner failed to file a return for those years. Since Petitioner failed to file his returns by the due date, the returns were delinquent and the penalty was added. Petitioner has provided nothing that would dissuade the Commission from accepting the Bureau's determination to apply the delinquency penalty for taxable years 2007, 2008, and 2009.

THEREFORE, the penalty added in the Notice of Deficiency Determination dated April 3, 2014, is, hereby, 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	\$1,333	\$333	\$441.90	\$2,107.90
2008	419	105	116.90	640.90
2009	1,508	377	327.47	<u>2,212.47</u>
				<u>\$4,961.27</u>

Interest is computed 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.

---