

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 39199
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On July 10, 2013, the Tax Discovery Bureau (TDB) 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 2005 through 2011 in the total amount of \$69,802.

A timely protest and petition for redetermination was filed by the petitioner on September 9, 2013. An informal hearing has not been requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NODD.

When the Bureau could not find any record of the petitioner’s 2005 through 2011 Idaho individual income tax returns, a letter was sent to the petitioner advising her of the missing returns and asking her for an explanation. The petitioner did not respond.

[Redacted] Idaho Code § 63-3045(1)(a) states:

63-3045. Notice of redetermination or deficiency -- Interest. (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by first class mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer’s last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer’s right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

Because the petitioner did not file her state income tax returns, the Bureau prepared provisional returns and issued an NODD. The NODD was based on information obtained from [Redacted] and those records retained by the Commission. The petitioner protested the Bureau's determination, stating that she had dependent exemptions and business expenses that were not taken into consideration on the NODD.

According to the Idaho Secretary of State, the petitioner is the sole proprietor of [Redacted]. The business was registered on March 31, 2004, and is still active today. The petitioner applied for, and received, an Idaho sales tax permit on April 1, 2004, and sales and use tax returns have been filed for taxable years 2005 through 2011.

The returns prepared by the Bureau were based on information obtained from the [Redacted] and those records retained by the Commission. For taxable year 2005, the Bureau used the total sales reported by the petitioner on her sales and use tax return for that year to determine her Idaho taxable income. For taxable years 2006 through 2008 the Bureau used the [Redacted] adjusted gross income as shown on the substitute returns prepared by the [Redacted], along with the total Idaho sales reported on the petitioner's Idaho sales tax returns, to determine Idaho taxable income. For taxable years 2009 through 2011, the Bureau used total sales reported by the petitioner on her sales and use tax returns, along with income information obtained from the [Redacted]. The filing status of single was used to determine the taxpayer's Idaho income tax responsibility for all years shown on the NODD.

The petitioner's protest letter dated September 9, 2013, described numerous professional and personal misfortunes that have occurred over the years that, according to the petitioner, made it difficult to get returns prepared. She requested more time to gather information and meet with her tax preparer. The petitioner's appeal letter also stated that the NODD was not accurate, as it did not

allow any expenses for her business. The petitioner attached worksheets titled “[Redacted] Expense Totals” for taxable years 2005 through 2007.

The Bureau acknowledged the petitioner’s protest and allowed her additional time in which to prepare returns. Several other extensions of time were allowed by the Bureau but to date, no returns have been submitted. The petitioner’s file was forwarded to the Commission’s Legal/Tax Policy Division for administrative review.

The Tax Policy Specialist sent the petitioner a hearing rights letter to inform her of the alternatives for redetermining a protested NODD. The petitioner did not respond. The Commission, believing the petitioner has had more than an adequate amount of time in which to submit returns, decides this matter based upon the record as it now stands.

The petitioner has not provided the Commission with a contrary result to the determination of her income for the taxable years 2005 through 2011. The petitioner did provide in her protest letter, a list of expenses supposedly associated with her business. The figures were simply listed in column form and not substantiated in any way; therefore, they were not taken into consideration. The Commission also has an obligation to treat taxpayers alike based on objective information submitted through proper channels and in proper form. The expense data is such information. The expense totals provided by the petitioner, if employed to reduce the petitioner’s profit, would be merely speculative estimates in the absence of a return in proper form signed by the petitioner.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com’n, 110 Idaho 572 (Ct. App. 1986)... It is the petitioner’s responsibility, and the burden rests upon them, to disclose their receipts and claim their proper deductions. United States v. Ballard, 535 F.2d 400 (1976). The Commission

recognizes that the petitioner may have had business expenses to offset the income; yet, if the petitioner is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and the petitioner must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931).

Having presented no information in support of her argument, the petitioner has failed to meet her burden of proving error on the part of the deficiency determination. Therefore, the Commission must uphold the deficiency. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated July 10, 2013, is hereby APPROVED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$2,159	\$ 540	\$1,004	\$ 3,703
2006	6,309	1,598	2,519	10,426
2007	9,156	2,289	3,013	14,458
2008	8,692	2,173	2,306	13,171
2009	6,755	1,689	1,461	9,905
2010	7,756	1,939	1,310	11,005
2011	7,884	1,971	1,010	<u>10,865</u>
			Total Due	<u>\$73,533</u>

Interest is computed through October 1, 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.
