

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|--------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 0-071-684-096 |
| [Redacted] , |) | |
| |) | |
| Petitioner. |) | DECISION |
| |) | |

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated November 21, 2014, asserting income tax, penalty, and interest in the total amount of \$1,413 for taxable years 2004 and 2008. Petitioner disagreed that he did not file Idaho income tax returns for 2004 and 2008. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

During a review of the Tax Commission's records, the Tax Discovery Bureau (Bureau) found that Petitioner's income tax return history was missing income tax returns for taxable years 2004 and 2008. The Bureau sent Petitioner a letter asking about his requirement to file Idaho income tax returns for 2004 and 2008. Petitioner did not respond. The Bureau obtained information from its third party sources, determined Petitioner was required to file Idaho individual income tax returns, prepared income tax returns for Petitioner, and sent Petitioner a Notice of Deficiency Determination.

Petitioner protested stating the years in question should have been filed by the CPA he was using at the time. Petitioner stated he requested copies of his returns from the CPA, but has yet to receive anything from him. Petitioner also stated he would have thought that if he owed tax for those years, he would not have received refunds in the succeeding years.

The Bureau acknowledged Petitioner's protest and allowed Petitioner additional time to provide copies of his income tax returns and all W-2s and 1099s to substantiate his income and withholdings. A short time later, Petitioner sent the Bureau a letter that stated getting the

requested documentation was more of a challenge than Petitioner anticipated and unfortunately he has been unsuccessful. Petitioner asked for the amount due, and stated he would try and resolve the matter.

The Bureau sent Petitioner a protest withdrawal form, but Petitioner did not return it. After a second unsuccessful attempt with the protest withdrawal form, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner did not respond. The Tax Commission sent a follow-up letter to Petitioner, but still received no response. Therefore, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3030 states the income thresholds for filing Idaho individual income tax returns. From the information the Bureau gathered it is evident Petitioner had income in excess of the filing threshold for resident individuals for each of the taxable years in question. Petitioner was required to file Idaho income tax returns.

Petitioner did not disagree that he was required to file Idaho individual income tax returns. Petitioner's belief was that the income tax returns had been filed. Petitioner apparently attempted to get copies of his returns, but was unsuccessful. Petitioner also failed to provide any other information regarding taxable years 2004 and 2008.

The Bureau's determination of Petitioner's Idaho income tax came from forms 1099 and W-2 Wage and Tax statements. The Bureau allowed Petitioner a personal exemption deduction

and the standard deduction. The Bureau also allowed Petitioner the Idaho withholdings it was able to substantiate.

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). Petitioner did not provide any information contrary to the Bureau's determination. Petitioner argued his returns were filed by his CPA. However, the Tax Commission has no record of the returns being filed and Petitioner provided no evidence that the returns were filed. Petitioner did not meet his burden.

The Tax Commission reviewed the returns the Bureau prepared for Petitioner and found them to be an accurate representation of Petitioner's Idaho adjusted gross income. However, for taxable year 2004, the Bureau did not include all the information that it obtained from its third party sources. The information available shows Petitioner had two dependent exemptions in addition to his personal exemption. The result being Petitioner's Idaho taxable income is reduced. The Bureau also did not include the credit available to Petitioner as provided in Idaho Code section 63-3024A. Therefore, the Tax Commission incorporates these adjustments in its decision.

CONCLUSION

Petitioner received income in excess of Idaho's filing requirements in 2004 and 2008. Petitioner was required to file Idaho individual income tax returns for those taxable years, and the Tax Commission has no record of those returns being filed. Petitioner did not contest his requirement to file Idaho income tax returns. Petitioner did not provide anything to show the returns prepared by the Bureau were incorrect. However, the Tax Commission found the Bureau

did not include all the information available when preparing Petitioner's 2004 and 2008 Idaho income tax returns. Therefore, the Tax Commission modifies the returns prepared by the Bureau as stated above and finds the modified returns an accurate depiction of Petitioner's Idaho income tax.

The Bureau added interest and penalty to Petitioner's Idaho tax deficiency. The Tax 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 November 21, 2014, and directed to **[Redacted]** is AFFIRMED as MODIFIED.

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> |
|-------------|------------|----------------|-----------------|--------------|
| 2004 | \$64 | \$16 | \$38 | \$118 |
| 2008 | 290 | 73 | 94 | <u>457</u> |
| | | | TOTAL DUE | <u>\$575</u> |

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 _____ 2016.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2016, 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.
