

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-331-378-688
[REDACTED],)	
)	
Petitioner.)	DECISION
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)	

On November 5, 2014, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing taxes, penalties and interest for taxable years 2008 through 2012 in the total amount of \$53,208.

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

The petitioner and his wife did not file their 2008 through 2012 Idaho individual income tax returns. Because Commission records showed the petitioners met the state income tax filing requirements and had not filed their Idaho individual income tax returns for taxable years 2008 through 2012, the Bureau attempted to contact them for clarification. The petitioners did not respond. [Redacted].

Because petitioners did not file state income tax returns, the Bureau prepared provisional returns and issued an NODD. On January 6, 2015, the Bureau received a letter of protest from Mr. [Redacted] acknowledging his requirement to file Idaho individual income tax returns, but stated that serious financial trouble and health concerns have prevented him from completing and submitting those returns. Petitioner also stated the NODD is incorrect as it does not reflect the expenses incurred by his business. The Bureau acknowledged the protest and allowed the petitioners' additional time in which to prepare and submit the missing returns. When returns

were not received, the file was transferred to the Legal/Tax Policy Division for administrative review.

Mr. [Redacted] responded to a letter from the tax policy specialist that outlined his appeal rights, but did not request an informal conference. A follow-up letter was also sent by the policy specialist. The petitioners responded, asking for a reminder of what issues still needed to be resolved and requesting a copy of the NODD. The information requested was provided to the petitioners but to date, no further correspondence has been received and Idaho individual income tax returns for taxable years 2008 through 2012 have not been submitted. The time has come for the Commission to decide this matter.

The information obtained from the Internal Revenue Service (IRS) along with Commission records, show the petitioner and his wife had income in excess of the filing requirement. The Commission issued an NODD to the petitioner and his wife based on the income information obtained from the IRS and that found in Commission records.

According to the IRS, neither the petitioner, nor his spouse, filed federal income tax returns for 2008 through 2012. If a husband and wife elect to file a joint return for federal purposes, they are required to file a joint return for state purposes. The petitioner indicated in correspondence with the Bureau that he generally does file jointly with his wife. However, because the election to file a joint return wasn't made on the federal return, the Commission must issue assessments using the filing status of Married, Filing Separate with income and deductions equally divided between spouses according to Idaho's community property laws.

The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

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 the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The petitioner has provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable years 2008 through 2012.

THEREFORE, the Notice of Deficiency Determination dated November 5, 2014 and directed to [Redacted], is hereby APPROVED and MADE FINAL.

IT IS ORDERED that the petitioner pay the following taxes, penalties, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$1,594	\$399	\$474	\$2,467
2009	7,978	1,995	1,973	11,946
2010	10,557	2,639	2,113	15,309
2011	12,347	3,087	1,973	17,407
2012	6,139	1,535	755	<u>8,429</u>
			TOTAL DUE	<u>\$55,558</u>

Interest is calculated through July 15, 2016.

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.
