

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---|---|--------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 1-815-777-280 |
| [REDACTED], |) | |
| |) | |
| Petitioner. |) | DECISION |
| <hr style="width: 40%; margin-left: 0;"/> |) | |

On December 3, 2014, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing income taxes, penalties, and interest for taxable years 2008, 2010, and 2012 in the total amount of \$3,839.

The petitioner filed a timely protest and subsequently submitted an Idaho individual income tax return for taxable year 2012. The 2012 return was forwarded to processing and the NODD for that year was cancelled. Tax year 2012 will not be mentioned further in this decision. No information has been provided for taxable years 2008 or 2010. The Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

During the years in question, the petitioner did not file Idaho individual income tax returns even though Commission records show he satisfied the requirements stated in Idaho Code § 63-3030 for filing Idaho tax returns. The Bureau attempted to contact the petitioner for an explanation of why his 2008 and 2010 Idaho individual income tax returns had not been filed, but he did not respond to the inquiries.

The Bureau requested and received a transcript of the petitioner's federal income records from the Internal Revenue Service (IRS). The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

Idaho Code § 63-3045 (1) (a) states:

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.

The Bureau prepared the missing Idaho returns on behalf of the petitioner and sent him an NODD. The NODD was based on information obtained from the IRS and those records retained by the Commission.

The petitioner protested the Bureau's determination. In his protest letter, the petitioner did not dispute the fact that he had a filing requirement and in later correspondence indicated that the returns prepared by the Bureau appeared to be accurate with the exception of the omission of the grocery credit. The petitioner informed the Bureau that his intention was to submit returns based upon the income information shown in the Notice and that he would be claiming the grocery credit.

The Bureau acknowledged the petitioner's protest and allowed him additional time in which to submit returns for taxable years 2008 and 2010, but no returns were filed. The Bureau then, in an effort to address the petitioner's legal and factual reason that the Notice was in error, modified the original Notice to allow for the grocery credit. The petitioner was sent a copy of this Notice and was asked if he agreed with the revised figures, to consider withdrawing his protest. To date, the petitioner has not withdrawn his protest and has not submitted Idaho individual income tax returns for taxable years 2008 and 2010. The time has come for the Commission to decide this matter.

When the petitioner did not deliver the returns to the Bureau and ceased communications, his file was transferred to the Legal/Tax Policy Division for administrative review. The petitioner

was sent a letter advising him of his appeal rights, but did not respond. A follow-up letter was also sent with no response.

The Idaho individual income tax returns the Bureau prepared on behalf of the petitioner were based on income information gleaned from the petitioner's federal income records and the records retained by the Commission. For taxable year 2008, a filing status of Head of Household, with four exemptions, as shown in IRS records, was used to determine the petitioner's Idaho income tax responsibility. For taxable year 2010, a filing status of Head of Household, with five exemptions, as shown in IRS records, was used to determine Idaho's income tax liability. The petitioner's withholding of \$21 and \$1,672 for taxable years 2008 and 2010, respectively, was allowed to offset a portion of the Idaho income tax due. 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.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Commission, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayers to show the deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The petitioner neglected to file his 2008 and 2010 Idaho individual income tax returns and has failed to meet his burden of proving error on the part of the deficiency determination. Absent information to the contrary, the Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for those years.

THEREFORE, the Notice of Deficiency Determination dated December 3, 2014, and directed to [Redacted], is hereby MODIFIED and as modified, 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 | \$892 | \$223 | \$267 | \$1,382 |
| 2010 | 456 | 114 | 92 | <u>662</u> |
| | | | TOTAL DUE | <u>\$2,044</u> |

Interest is calculated through August 1, 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.
