

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
[Redacted])	DOCKET NO. 1-095-411-712
)	
Petitioner.)	DECISION
_____)	

The Idaho State Tax Commission (Commission) reviewed your case and this is our final decision. We uphold the Notice of Deficiency Determination (Notice) dated February 21, 2018. This means **you need to pay \$70,288** of tax, penalty, and interest for taxable years 2010 through 2015. The Commission now DEMANDS immediate payment of the foregoing amount.

[Redacted] (Petitioner) was an Idaho resident for the years under review. For taxable years 2010 through 2015, Petitioner did not file his Idaho individual income tax returns. The Commission’s non-filer unit contacted Petitioner regarding the missing returns. In response to the inquiry, Petitioner filed his returns for taxable years 2010 through 2015. The auditor for the Tax Discovery Bureau (Bureau) reviewed the returns and based on Commission records, decided the returns were not correct as they did not include all of Petitioner’s income. The auditor acknowledged receipt of the returns and informed Petitioner an adjusting audit was forthcoming to include the flow through business income from [Redacted]

Petitioner did not respond to the Bureau’s notification letter nor did he amend his returns for taxable years 2010 through 2015. The Bureau obtained other income information from the Idaho Secretary of State, the Idaho Department of Transportation, bank records from two separate financial institutions, and other documentation of Petitioner’s income, then issued a Notice. Petitioner protested the Notice and the matter was referred to the Appeals unit for administrative

review. Petitioner did not request an informal hearing, nor has he provided any other documentation for the Commission's consideration.

The Notice issued by the Bureau was based on bank deposits for each of Petitioner's respective businesses. A deduction for payroll expenses was allowed in years where Petitioner's business filed a withholding return. The Bureau found Idaho withholding on Petitioner's wages in taxable years 2011, 2012, 2013 and 2015; \$714, \$667, \$72 and \$1, respectively. The Bureau reduced Petitioner's Idaho individual income tax due by these amounts.

In his letter of protest Petitioner stated the Notice was incorrect as it showed business income rather than personal income. However, Petitioner has yet to file the required business returns that would reflect a more exact amount of personal income.

In Idaho, it is well established that a Commission Notice is presumed to be correct, and the taxpayer bears the burden of showing the deficiency is erroneous. *See Parker v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). Petitioner has not met this burden. Petitioner did provide in his protest letter a figure for each year that he determined to be his personal income. The amounts were listed by year and named the business, but they were not substantiated in any way. The Commission has an obligation to treat taxpayers alike based on objective information submitted through proper channels and in proper form. The personal income information provided by Petitioner, if allowed, would be merely a speculative estimate in the absence of a business return in proper form signed by Petitioner.

It is the taxpayer's responsibility, and the burden rests upon them to disclose their receipts and claim their proper deductions. *See United States v. Ballard*, 535 F.2d 400 (1976). The Commission recognizes that Petitioner may have incurred business deductions in excess of what

was allowed by the Bureau. However, if a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed, and that taxpayer must bear his misfortune. *See Burnet v. Houston*, 283 US. 223, 51 S.Ct. 413 (1931).

The Commission upholds the Bureau's calculation of Petitioner's Idaho income and Idaho income tax liability for taxable years 2010 through 2015. The Bureau added statutory interest and the negligence penalty to Petitioner's tax deficiency. The Commission reviewed those additions and found them proper following Idaho Code §§ 63-3045 and 63-3046, respectively.

The Notice dated February 21, 2018, and directed to [Redacted] 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>
2010	\$15,535	\$3,884	\$4,671	\$24,090
2011	10,032	2,508	2,612	15,152
2012	2,214	554	495	3,263
2013	5,925	1,481	1,130	8,536
2014	8,890	2,223	1,339	12,452
2015	4,994	1,249	552	<u>6,795</u>
			TOTAL DUE	<u>\$70,288</u>

Interest is calculated through March 29, 2019.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2019.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2019,
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.
