

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-823-720-448
)	
Petitioner.)	DECISION
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(Petitioner) protested the Notice of Deficiency Determination (Notice) dated January 12, 2023. The Tax Commission reviewed the matter and hereby issues its final decision modifying the Notice. This means Petitioner needs to pay \$6,602 of tax, penalty, and interest for tax year 2018. The Tax Commission DEMANDS immediate payment of this amount.

Background

During a review of taxpayer information, the Tax Commission’s Tax Discovery Bureau (Bureau) could not locate Petitioner’s Idaho individual income tax returns for tax years 2018 and 2020. The Bureau determined that Petitioner met the requirements to file Idaho tax returns for the years in question.

The Bureau sent Petitioner a letter on October 18, 2022, inquiring about the missing returns. Petitioner responded to the Bureau’s letter, indicating he believed the returns would not result in any tax due. Petitioner requested an extension to file the missing returns, which the Bureau granted. Petitioner did not meet the Bureau’s extended deadline, so the Bureau prepared returns for him and issued a Notice on January 12, 2023. In calculating Petitioner’s Idaho taxable income, the Bureau included wages for both years, gross receipts from activities transacted through a third party for 2018, and unemployment compensation for 2020. The Bureau determined that Petitioner was an Idaho resident, unmarried, and had no dependents for these years.

Petitioner protested the Notice, citing these reasons:

1. The “income” from third party transactions was gross revenue and does not reflect refunds or expenses. The activity resulted in a breakeven or potentially a loss.
2. He had been unable to obtain information from the third party in these transactions because the account in question had been closed for several years.
3. He was married as of December 31, 2018, and his tax rate should reflect that.
4. The assessment doesn’t account for any deductions, including the standard deduction.
5. He doesn’t believe he was required to file for 2018 or 2020, because he doesn’t believe he had a tax liability.

Additionally, Petitioner requested more time to file his missing returns. The Bureau sent a letter acknowledging Petitioner’s protest and requesting at least one of the missing returns by April 14, 2023. Petitioner subsequently filed his 2020 return by this date. The Bureau accepted this return and requested the 2018 return by May 12, 2023. Petitioner did not meet this deadline, so the Bureau referred the matter to the Tax Commission’s Appeals unit (Appeals) for administrative review.

On June 14, 2023, Appeals sent Petitioner a letter outlining two options for redetermining a protested Notice. Petitioner did not respond. Therefore, the Tax Commission decided this matter based on the information currently available.

Law & Analysis

The 2020 return filed by Petitioner better represents his taxable income than the return prepared by the Bureau. Therefore, the Tax Commission cancels the Notice for tax year 2020; this year will not be mentioned further in this decision. The only issue for decision is the missing return for tax year 2018. We address in turn each of Petitioner’s reasons cited above for protesting the Bureau’s Notice.

Petitioner protested the Notice because no expenses were allowed in calculating Idaho taxable income and he has been unable to obtain necessary information to prove that he incurred expenses against his income (#1 and #2 above). The Tax Commission realizes that Petitioner may have had business expenses related to income received in tax year 2018. However, deductions are a matter of legislative grace, and the taxpayer bears the burden of showing that each deduction is allowable by statute. *New Colonial Ice Co. v. Helvering*, 292 US. 435, 54 S.Ct. 788 (1934); *Higgins v. C.I.R.*, T.C. Memo. 1984-330, (1984). The burden rests upon the taxpayer to disclose its receipts and claim its proper deductions. *United States v. Ballard*, 535 F.2d 400 (1976). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed, and the taxpayer must bear its misfortune. *Burnet v. Houston*, 283 US. 223, 51 S.Ct. 413 (1931). The Tax Commission has not received any information about the nature of Petitioner's business activities during 2018. Petitioner did not file any return in prior or subsequent years showing similar activity. Due to the lack of available information, the Tax Commission cannot reasonably estimate an allowable deduction for business expenses. Because Petitioner has not claimed a deduction or provided any documentation to show his expenses, no deduction for business expenses is allowed.

Petitioner protested on the grounds that he should be taxed at a different rate than that reflected in the Notice because he was married (#3 above). For married individuals, the available filing statuses are "Married filing jointly" and "Married filing separately." The Bureau treated him as "Single" in the Notice. The tax rates for married people filing separately are the same as the rates for those using the Single filing status. The "Married filing jointly" status carries a lower tax rate for the same taxable income. The Tax Commission has not received any information to show definitively that Petitioner was married on the last day of 2018, nor that he and a spouse would file

a joint return. The Tax Commission finds the Bureau's use of the "Single" filing status to be appropriate given available information.

Petitioner stated in his protest that the Notice didn't include any deductions, including the standard deduction (#4 above). As discussed prior, no deductions for business expenses are allowed. However, in calculating Petitioner's Idaho taxable income for 2018, the Bureau did allow the standard deduction amount for an individual using the "Single" filing status (\$12,000).

Finally, Petitioner stated that he didn't believe he met the requirement to file a return for 2018 (#5 above). Idaho Code section 63-3030(a)(1) requires each individual who is a resident of Idaho to file an Idaho income tax return if required to file a federal return. Internal Revenue Code section 6012 states that the requirement to file a federal return is based on gross income. Internal Revenue Code section 62 states that the gross income of an individual includes gross income derived from business, which is the income received without regard to any allowable deductions for business expenses. The information gathered by the Bureau and used to calculate Petitioner's Idaho taxable income shows that Petitioner received gross income above the threshold amount for filing a federal tax return for tax year 2018. Therefore, the Tax Commission finds that Petitioner did meet the requirements to file an Idaho return.

In Idaho, it is well established that a Tax Commission Notice is presumed to be correct, and the taxpayer bears the burden of showing the deficiency is erroneous. *See Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986) (citing *Albertson's Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814 (1984)). The Tax Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Petitioner has failed to do so. He has not filed an actual return for tax year 2018 or provided any

substantive argument or documentation to show the individual income tax return prepared by the Bureau for tax year 2018 is incorrect.

The Bureau added interest and penalty to Petitioner's tax deficiency. The Tax Commission reviewed those additions and finds them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

Conclusion

The Bureau determined that Petitioner was required to file an Idaho income tax return for 2018 and prepared a return for him. The Tax Commission finds the 2018 return prepared by the Bureau reasonable based on available information. Petitioner has not filed a return for 2018, nor has he shown that the return the Bureau prepared was incorrect.

THEREFORE, the Notice dated January 12, 2023, and directed to _____ is hereby MODIFIED, and as modified, 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>
2018	4,639	1,160	803	6,602

Interest is calculated through December 11, 2023.

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

DATED this _____ day of _____ 2023.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2023,
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:

Receipt No.
