

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-850-213-376
)	
Petitioner.)	DECISION
<hr style="width: 45%; margin-left: 0;"/>)	

(Petitioner) protested the Notice of Deficiency Determination (Notice) dated January 4, 2022. The Idaho State Tax Commission (Tax Commission) reviewed Petitioner’s case, and this is our final decision. We uphold the Notice, which means Petitioner needs to pay \$53,635 of tax, penalty, and interest for tax years 2015 through 2017, and tax year 2019. The Tax Commission now DEMANDS immediate payment of this amount.

The Tax Commission’s Tax Discovery Bureau (Bureau) contacted Petitioner on October 15, 2021, as they could not find his Idaho individual income tax returns for the previously mentioned years. Petitioner did not respond. Therefore, the Bureau prepared returns for Petitioner and issued him a Notice. Petitioner protested the Notice, arguing the numbers shown are incorrect and “I did not do formal tax documents because I lost money in those years and was not sure I needed to.” Petitioner requested the Bureau determine he owes \$0 in tax or give him time to find, compile and prove that he lost money every year since 2016.

The Bureau acknowledged Petitioner’s protest and allowed him more time to file the missing returns. When returns did not arrive, the Bureau forwarded the matter to the Tax Commission’s Appeals (Appeals) unit for administrative review.

Appeals sent Petitioner a letter informing him of his options for redetermining a protested Notice. Petitioner did not respond. Appeals sent a follow up letter, but this too went unanswered. The Tax Commission has yet to receive Petitioner’s Idaho individual income tax returns for tax

years 2015 through 2017, and tax year 2019. Petitioner has had more than an adequate amount of time in which to file his returns. Therefore, the Tax Commission, will decide this matter based on the information presently available.

For the years shown in the Notice, the Bureau determined Petitioner's Idaho income from different sources, an objective source, income reported to Petitioner on form W-2¹ and/or form 1099 and some estimates, Schedule C income from Petitioner's programming business,² and Schedule E income from rental activity.³

Petitioner argues in his protest letter the estimated Schedule C income for tax years 2015 through 2016 is incorrect, yet he has provided no substantive documentation to the contrary. The Bureau did use estimation to determine the business income shown on the Notice but realizing Petitioner must have incurred expenses to generate said income, they also estimated expenses, reducing Petitioner's Schedule C income.

Petitioner makes the same argument regarding the Schedule E income shown in the Notice. "I lost money on the rentals. A/C unit, mold remediation, sewer line replacement and other expenses wiped out the rental income. That is why I sold them." Petitioner may have incurred a loss on the rental properties but that does not eliminate his requirement to file returns. *See* Idaho Code section 63-3030.

The Tax Commission realizes Petitioner may have had expenses more than those shown in the Notice for both his programming business and his rental properties to offset this income.

¹ For tax years 2016 and 2017 Petitioner received W-2 wages and had Idaho income tax withheld.

² Petitioner received 1099Misc income only in 2015 and 2016. These amounts were used to estimate gross receipts on Schedule C. Petitioner filed federal returns for tax years 2013 and 2014 reporting gross receipts equal to 1099Misc income.

³ Petitioner filed a federal Schedule E in prior years. Based on available records, Petitioner sold both rental properties in 2017.

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).

On appeal, a deficiency determination issued by the Tax Commission “is presumed to be correct, and the burden is on the taxpayer to show that the Tax Commission’s decision is erroneous.” *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)). 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. Therefore, the Tax Commission finds the returns prepared by the Bureau are a reasonable representation of Petitioner’s Idaho taxable income, and related tax due.

The Bureau added interest and penalty to Petitioner’s Idaho tax. The Tax Commission reviewed those additions and finds them correctly applied according to Idaho Code sections 63-3045 and 63-3046.

Therefore, the Notice dated January 4, 2022, and directed to _____ is hereby APPROVED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest, computed to December 31, 2022.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2015	\$11,553	\$2,888	\$2,756	\$17,197
2016	4,553	1,138	917	6,608
2017	18,167	4,542	3,063	25,772
2019	3,054	764	240	<u>4,058</u>
			TOTAL DUE	\$53,635

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

DATED this _____ day of _____ 2022.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2022,
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.
