

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 11325
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On May 8, 1996, the Tax Discovery Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (taxpayer), asserting income taxes, penalty and interest in the amount of \$24,644 for the years ending December 31, 1990 through 1994.

On July 9, 1996, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request an informal hearing but did submit additional information. The Commission, after reviewing the contents of the file and the information provided by the taxpayer, issues its decision modifying the NOD.

The taxpayer was contacted by letters in April, May, July, September, and December 1995 that inquired about the need to file his Idaho individual income tax returns for the years in question. The taxpayer did not respond to these inquiries.

Since no response was received from the taxpayer, a NOD was sent to the taxpayer. In the NOD, provisional Idaho income tax returns were prepared for 1990, 1991, 1992, 1993, and 1994 based on the taxpayer's 1989 Idaho income tax return filed with the Commission. The taxpayer's income for 1990 was estimated by increasing the taxable income on his 1989 return by 5%. The income of each return was increased by 5% over the previous year.

In the taxpayer's protest letter of July 9, 1996, he stated that he would file actual tax returns for the years in question.

On October 1, 1996, the taxpayer submitted Idaho individual income tax returns for the years ending December 31, 1991 through 1994.

On March 18, 1997, the tax discovery staff forwarded the file to the Commission's tax policy division to continue with the taxpayer's appeal rights.

A hearing rights letter was sent to the taxpayer on April 15, 1997 that informed him of his alternatives for redetermining his protested NOD. A follow-up hearing rights letter was sent to the taxpayer on May 29, 1997.

In a letter from the taxpayer dated June 9, 1997 he stated "I have my individual income tax return for 1990, but I am in the process of submitting a 1040 X amendment to the IRS, for 1990." According to the Commission's records, the taxpayer's 1990 Idaho individual income tax return has never been filed.

During a telephone conversation with the taxpayer on October 29, 1999, the Tax Policy Specialist (specialist) asked the taxpayer a specific question concerning his Schedule C "Profit or Loss From Business" filed with his U. S. individual income tax returns. The question was, what was included in line 35 "Cost of Labor" under Section III Cost of Goods Sold on his Schedule C. The taxpayer replied that these figures included amounts paid for nonemployee compensation and amounts that were paid to him. It is incorrect for the taxpayer to have claimed the amounts paid to himself as an expense of his business unless the amounts were reported as wages on his income tax return. The taxpayer did not report any wages earned from his business on his income tax returns that he submitted. The taxpayer was reminded of the fact that he still needed to file his 1990 Idaho individual income tax return with the Commission.

In a letter dated November 2, 1999, the specialist requested that the taxpayer send a list of names for individuals or companies and the amounts paid to them that were claimed as “Cost of Labor” on line 35 of his Schedule C for the years 1990 through 1994. In a subsequent letter sent in November 1999, the specialist requested that the taxpayer send all Form 1099s issued by the taxpayer for the years in question. The specialist also requested that the taxpayer send his 1990 Idaho individual income tax return to the specialist’s attention, along with his federal return with all supplemental schedules. The specialist informed the taxpayer that, if he didn’t receive the information requested in this letter before November 30, 1999, it was possible that all amounts claimed by the taxpayer for cost of labor would be denied. The taxpayer did not respond to the specialist’s letter. The following is a recap of the “Cost of Labor” that the taxpayer claimed in those years.

<u>Year</u>	<u>Cost of Labor</u>
1990	No return filed
1991	\$ 4,762
1992	\$15,001
1993	\$18,692
1994	\$27,628

The taxpayer was required to submit information for nonemployee compensation to the state of Idaho. All persons, in whatever capacity, making payments to subcontractors shall make returns to the State Tax Commission setting forth the amount of such income, and the name and address of the recipient of such payment. Such returns shall correspond to the requirements of the Internal Revenue Code. Idaho Code § 63-3037(a). The taxpayer did not make such returns to the Commission for the years in question.

[Redacted]. [Redacted]. [Redacted].

In June 2000, the taxpayer stopped by the Commission’s Boise office to meet the specialist.

While there, the taxpayer wrote down some names of companies he said were some of his
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 [Redacted]

subcontractors in the years in question. The specialist requested that the taxpayer send him a list of names and payments for his subcontractors for the years in question. Again, the taxpayer did not provide the requested information.

The information contained in the taxpayer's Idaho and U.S. individual income tax returns for the years 1991 through 1994, which he has provided to the Commission, appeared to be more accurate than the provisional returns prepared by the Tax Enforcement Specialist. Therefore, the Commission will use the information found in these returns to compute the taxpayer's taxable income. An adjustment was made to disallow the "Cost of Labor" portion of the "Cost of Goods Sold" on his Schedule C since the taxpayer did not provide information such as cancelled checks, 1099 statements, or a list of names and amounts for payments to subcontractors to support this business expense as requested by the specialist.

As of this date, the Commission has not received the taxpayer's actual 1990 Idaho individual income tax return. Therefore, the Commission's provisional return for the taxpayer for 1990 will be used to compute the taxpayer's Idaho individual income tax liability for this period.

WHEREFORE, the Notice of Deficiency Determination dated May 8, 1996, as MODIFIED, is hereby APPROVED, AFFIRMED AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following taxes, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/90	\$2,905	\$726	\$2,630	\$6,261
12/31/91	162	41	127	330
12/31/92	826	207	550	1,583
12/31/93	1,431	358	801	2,590
12/31/94	2,935	734	1,423	5,092
		TOTAL DUE		<u>\$15,856</u>

Interest is computed through April 5, 2001, and will continue to accrue at the rate of \$1.81 per day until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2001, 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][REDACTED][REDACTED][REDACTED]