

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 12656
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On January 22, 1998, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 1993, in the total amount of \$1,623.

On March 26, 1998, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but stated he would submit an actual return. No return was submitted. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision.

The Bureau reviewed federal audit information on the taxpayer and determined the audit adjustments were applicable to the taxpayer's Idaho income tax return. In researching the taxpayer's Idaho filings, the Bureau found the taxpayer did not file an Idaho income tax return for the year [Redacted]. Therefore, the Bureau prepared a return and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer appealed the Bureau's determination putting forth a number of arguments, the basis of which came down to not having the proper information to file a return. According to the taxpayer, pursuant to his divorce decree, a trustee was appointed to sell the inventory, equipment, tools, shop manuals, junk cars and other community property identified as the assets of his business, [Redacted]. The taxpayer asserted that a fraud was perpetuated against him

regarding the appraisal and sale of his business property and inventory. In support of his argument, the taxpayer stated the following:

My home and shop were on the same property as an economic unit, a Business Enterprise that dealt in interstate commerce and therefore 18 USC 1951 would have been violated by the unlawful taking of my Business Property and the illegal payment therefrom. This law takes in consideration for extortion, fear of economic loss, wrongful taking by the government officials which Judge . . . did with the taking of my property and the payments from Business Enterprise of [Redacted] with out any consideration for Idaho Codes 3-202, 32-705 and 37-708, etc. and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

As a result of the fraud, the taxpayer argued that he should be entitled to a deduction for a “theft loss” based on the appraisal value of his business inventory.

The taxpayer further stated that he wished to file an actual return for 1993. However, because the trustee had not filed fiduciary returns or provided a proper accounting of the inventory, the taxpayer stated he was unable to value his property and file a return.

The taxpayer’s argument concerning the valuation of his business property and inventory has some bearing on the computation of his tax liability. Any gain or loss from the sale of business property is a component of taxable income. Likewise, the sale of inventory is ordinary income to the taxpayer and becomes part of taxable income. However, throughout the appeal the taxpayer stated he had no way of determining his basis in the business property or what his cost was in the inventory.

The federal audit did not include any income or expense items for the taxpayer's business of [Redacted]. Therefore, the sale of the taxpayer's business property and his inventory had no effect on the taxpayer's tax liability. It is unknown why the business was not included unless everything concerning the business was considered a division of community property. [Redacted].

The taxpayer asserted that he had a casualty loss on the roof of his business during 1993 in the amount of \$10,000. [Redacted]. Treasury Regulation section 1.165-7 addresses casualty losses and sets forth what is required in order for a taxpayer to claim a casualty loss. The taxpayer provided no information to substantiate the claim other than his statement that it occurred. Therefore, the Tax Commission finds no justifiable reason to include an adjustment for a casualty loss.

Idaho Code section 63-3002 required Idaho residents to report all income from sources wherever derived. It further provided that income reported to Idaho shall be identical to that reported to the IRS, subject only to modifications in the Idaho law. [Redacted]. This case is no exception.

Since the taxpayer failed to provide anything to refute the Bureau's determination, he failed to meet his burden of proving error on the part of the deficiency determination for that year. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984).

WHEREFORE, the Notice of Deficiency Determination dated January 22, 1998, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1993	\$1,027	\$257	\$448	\$1,732

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 included 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] Receipt No. [Redacted]
[REDACTED][REDACTED]

ADMINISTRATIVE ASSISTANT 1