

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 13374
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On December 10, 1998, the staff of the Tax Discovery 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 years 1992 through 1997 in the total amount of \$18,420.

On February 12, 1999, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to submit returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) found while reviewing the Tax Commission's records that the taxpayer had not filed Idaho individual income tax returns for the taxable years 1992 through 1997. [Redacted]. The Bureau sent the taxpayer a letter inquiring into his filing requirements. The taxpayer did not respond.

The Bureau researched the Tax Commission's records further and found the taxpayer had a seller's permit and reported sales in 1993 and 1994. The Bureau determined the taxpayer met Idaho's filing requirements and prepared returns for the taxpayer. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested.

The taxpayer stated he did not earn any net profit during the years in question. He stated he would submit returns for each of the questioned years.

The Bureau allowed the taxpayer time to submit his income tax returns but the taxpayer failed to provide any. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter setting forth two alternative methods for redetermining the Notice of Deficiency Determination. The taxpayer did not respond to the initial letter but did respond by telephone to a follow-up letter.

The taxpayer did not understand the urgency for filing his returns if he owed no tax. The Tax Commission explained that it did not know exactly what the taxpayer's tax liability was but that it appeared there was a tax liability. The taxpayer stated he was working on his returns and that he would submit them when completed.

The Tax Commission remained in contact with the taxpayer and slowly the returns came in. The taxpayer submitted returns for 1993 through 1997. The Tax Commission reviewed those returns and found they represented the taxpayer's taxable income better than the returns prepared by the Bureau. Therefore, the Tax Commission accepted the taxpayer's returns in lieu of the returns prepared by the Bureau, subject to the normal review processes of the Tax Commission.

As for taxable year 1992, the taxpayer provided information that agreed with the information the Bureau used in preparing that return. Therefore, the Tax Commission upholds the Bureau's computation of the taxpayer's 1992 tax.

The Bureau also applied penalty and interest in accordance with Idaho Code sections 63-3046 and 63-3045. The Tax Commission reviewed these additions and found they were appropriate as applied to the 1992 tax due.

Of the returns the taxpayer submitted, all resulted in refunds except the 1994 return, which resulted in neither a refund or tax due. However, only the 1997 refund is within the statute of limitations for giving credit or issuing a refund. Idaho Code section 63-3072 states that a

claim for credit or refund must be filed within three (3) years of the due date of the return. The taxpayer submitted the 1997 return in March 2000, the rest of the returns were submitted in 2001. The 1996 return's statute of limitations expired April 15, 2000; therefore, the 1993 through 1996 statute of limitations had expired.

WHEREFORE, the Notice of Deficiency Determination dated December 10, 1998, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is 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>REFUND</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1992	\$0	\$119	\$30	\$83	\$ 232
1993	0				0
1994	0	0	0	0	0
1995	0				0
1996	0				0
1997	(20)				(20)
				TOTAL DUE	<u>\$ 212</u>

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