

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 13441
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On June 26, 2000, 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 year 1994, in the total amount of \$7,496.

On August 30, 2000, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but did provide additional information regarding the petition for redetermination. Therefore, the Tax Commission, having reviewed the entire file, hereby issues its decision.

[Redacted]. The Bureau concluded the taxpayer had income in excess of the filing requirement of Idaho Code section 63-3030 and issued a Notice of Deficiency Determination.

The taxpayer appealed the Bureau's determination. He stated that he did not live or work in the state of Idaho during 1994. According to the taxpayer, he worked for [Redacted], of [Redacted], Nevada from January to March and for [Redacted], of [Redacted], Idaho from March through December. According to the taxpayer, he worked and resided in [Redacted], Nevada the entire year.

From the information the taxpayer provided, the Bureau revised its Notice of Deficiency Determination and sent the revised determination to the taxpayer. The Bureau thought the taxpayer would withdraw his protest; however, instead he submitted a letter from [Redacted] to verify the status of his employment during 1994. According to the letter, the taxpayer was employed as a consultant from April 26, 1994 until August of 1994. The taxpayer was employed

in their [Redacted] office from August 1994 until September 1994. On September 1, 1994, the taxpayer began work as the project manager at a job site in [Redacted], Nevada, and was there through the end of the year.

On November 13, 2000, the taxpayer submitted a Nonresident Idaho Income Tax Return. The Bureau reviewed the return but did not accept it because the return did not include 1099 income the Bureau believed was Idaho source income. The Bureau asked the taxpayer for verification that the 1099 income was received while living and working outside the state. The taxpayer did not provide any additional information or documentation. Therefore, the Bureau reviewed the available information and on December 7, 2000, sent the taxpayer a second revised Notice of Deficiency Determination, which included the 1099 income and the taxpayer's W-2 wages earned in Idaho. The taxpayer again indicated that he intended to withdraw his protest; however, nothing was received so the case was referred for administrative review.

The Tax Commission contacted the taxpayer and requested additional information to verify his residence and employment during the year in question. On March 2, 2001, the taxpayer submitted information regarding his residency in Nevada. Upon review of the information, the Tax Commission determined the only Idaho source income was the wages the taxpayer earned while employed in Idaho. Therefore, the Tax Commission finds the nonresident return the taxpayer submitted for 1994 to be an accurate representation of the taxpayer's Idaho taxable income. Therefore, the Tax Commission accepted the taxpayer's return, subject to the normal review process of the Tax Commission, in lieu of the return prepared by the Bureau.

Although the return submitted by the taxpayer for 1994 resulted in a refund, Idaho Code section 63-3072(c) states that an application for any refund must be filed within three years of

the due date of the return. The taxpayer submitted his return on November 13, 2000. The statute of limitations expired on April 15, 1998. Therefore, no refund is allowed.

WHEREFORE, the Notice of Deficiency Determination dated June 26, 2000, is hereby MODIFIED in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, AND MADE FINAL.

Since the taxpayer owes no additional tax and the Tax Commission cannot issue a refund, NO ORDER for payment or refund is necessary.

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]
[REDACTED][Redacted] [REDACTED]

ADMINISTRATIVE ASSISTANT 1