



**Notice of redetermination or deficiency -- Interest.**

(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

When the taxpayer received the notice, he telephoned the Bureau to say he had filed his Idaho return for the year in question. The Bureau explained to the taxpayer that the determination of Idaho income tax due was the result of the additional income shown in the federal records. The taxpayer sent a copy of the Idaho return he had filed earlier. The Bureau sent the taxpayer a letter wherein he was, again, informed of the difference in the amount of income shown in the return he had submitted for filing with Idaho [Redacted].

On January 11, 2001, the Bureau received by Fax a letter from an Certified Public Accountant (CPA), an executed Power of Attorney form, and copies of returns filed with the IRS by [Redacted] and [Redacted] and [Redacted], a partnership. The CPA asked the Bureau to telephone him when the Fax was received.

The Bureau's Tax Enforcement Specialist (Specialist) telephoned the CPA and discussed the determination of taxable income by the IRS. [Redacted]. The Specialist advised the CPA that the law requires Idaho to follow the federal determination of taxable income. Therefore, if the taxpayer disagreed with the amount of taxable income used to determine the taxpayer's 1995 Idaho income tax responsibility, it would be necessary for the taxpayer to furnish the Bureau with a copy of the final federal determination that accepted the taxpayer's federal return as shown in the copies that

DECISION - 2  
[Redacted]

were Faxed to the Bureau.

The CPA said the figures used by the Bureau were those figures used by the IRS when the IRS prepared a federal return on behalf of the taxpayer. Since that time, the taxpayer and his wife filed an actual federal return. The CPA asked the Specialist to hold the taxpayer's deficiency notice and protest in abeyance for a period of time to allow him the opportunity to correct the federal record. After considerable time passed without the Bureau receiving any information from either the taxpayer or his representative, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

The Tax Appeals Specialist sent the taxpayer a letter advising him of his appeal rights and explaining the differences between the copy of the Idaho return furnished by the CPA and the federal record that was made available to the Bureau. The bulk of the difference was the change to the Schedule C adjustments. The Specialist telephoned the CPA and left a message for the CPA to return the call. The taxpayer's representative telephoned the Tax Appeals Specialist. He said he was going to be out of his office until Friday but would call back. The Specialist asked the CPA to obtain a more detailed Power of Attorney from the taxpayer. On March 30, 2000, the Tax Commission received the executed Power of Attorney form and a report from the IRS showing no changes to the original report. The Specialist wrote a letter to the CPA wherein the federal report was described.

Over the course of the next five months, the Specialist made at least six attempts to contact the taxpayer's CPA. On October 5, 2000, the Tax Commission received one more copy of the same Idaho return that was already on file with the Tax Commission. The attached letter instructed the Specialist to contact the taxpayer's CPA if there were any questions.

[Redacted] The Specialist telephoned the CPA and left a voice mail message.

[Redacted] That report was unchanged from the first report on which the Bureau's determination was based. The Specialist sent an e-mail message and left a voice mail message to the CPA [Redacted]. The CPA responded by e-mail saying that he was out of the country until the first of June. He said, "This deal with [Redacted] is puzzling and I will look into it." The Tax Commission has not heard from the taxpayer or his representative since that e-mail message on May 29, 2001.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated June 15, 1999, is APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest for 1995:

| <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|------------|----------------|-----------------|--------------|
| \$6,053    | \$1,513        | \$2,523         | \$10,089     |

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 I have on this \_\_\_\_ day of \_\_\_\_\_, 2001, served a copy of the within and foregoing DECISION 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