

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 13938
[Redacted],)	
)	DECISION
Petitioner.)	
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On June 15, 1999, the Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income taxes, penalties, and interest for tax year 1996 in the amount of \$10,839.

The taxpayer filed a timely protest. However, he did not request a hearing and did not submit additional information. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

The taxpayer, a long-time resident of Idaho, had not filed Idaho resident income tax returns for any years after 1990. Extensions of the time to file the returns were filed for some of the years, but the extensions were not followed up with the filing of returns. [Redacted]. [Redacted].

The [Redacted] taxpayer, a self-employed rancher, received income that exceeded the filing requirement during 1996. The taxpayer's income for the other years that were examined did not appear to fall within the range that required state [Redacted] tax returns to be filed.

The Bureau contacted the taxpayer by letter and telephone. The only result from those contacts was the receipt of an executed Power of Attorney form dated September 22, 1998 that was received from a tax preparer.

Idaho Code. § 63-3045 (1)(a) states:

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.

A deficiency determination was issued to the taxpayer addressing the 1996 tax year. In answer to that notice, the taxpayer's representative (POA) sent a letter wherein she explained: "The tax due of \$7,523 plus penalty and interest was based on a write-down of a loan by the [Redacted]. Mr. [Redacted] has ranch expenditures that will offset most of the tax due for the year ended 12/31/96." She asked for additional time to obtain the data needed to complete an accurate return.

A stay was granted and no further contact was made with the taxpayer or the POA until October 4, 1999 when the Bureau wrote the taxpayer a letter that extended the delay for another thirty days. At the end of that time, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

In response to a letter advising the taxpayer of his right to request a conference or submit additional information, the POA telephoned the Tax Commission on November 19, 1999. She again asked for more time to collect the necessary records required to prepare an accurate return for 1996 and the other outstanding years. She said it would be necessary to create tax returns for the other years in order to determine losses and expenses related to the taxpayer's ranching operation. On December 22, 1999 and January 21, 2000, the POA telephoned the Tax Commission with the same request for additional time.

Several other telephone calls have been placed to and received from the POA by the Tax Appeals Specialist. Efforts to contact the taxpayer directly have been unsuccessful. The following

telephone calls were noted in the taxpayer's file:

- March 7, 2000 – Talked to POA on telephone regarding the preparation of the 1996 tax returns. POA indicated it would take some time to prepare the return because of the basis in the cattle among other things. She indicated she hoped to have all of the returns ready in May.
- May 23, 2000 – Talked to POA on telephone. She said she is working very hard to get the returns done and hopes to submit them by mid June.
- June 15, 2000 – Talked to POA who returned phone call. She said she would send the returns she has completed next week. She said she has all the returns finished but 1996.
- July 7, 2000 – Talked to POA. POA asked if the Tax Commission had received the returns from the taxpayer. POA was advised there is no indication that the Tax Commission has received anything from the taxpayer.
- October 26, 2000 – Left message to POA indicating the Tax Commission was ready to issue a decision based on the contents of the file. POA returned the called. She said she had sent the returns to the taxpayer more than two weeks prior and had enclosed an envelope that was addressed to the Tax Commission.
- December 6, 2000 – POA telephoned to say she is still working on the 1996 return. She said she is working forward from the prior years. When she was told the other returns had not been received, she asked for an additional ten days to allow her an opportunity to contact the taxpayer and find out why the returns were not submitted to the Tax Commission.
- January 25, 2001 – Left message on POA's voice mail.
- February 5, 2001 – POA left message on voice mail that the 1996 Idaho return would be filed within one to two weeks.

There has been no further contact between the Tax Commission and/or POA or the taxpayer.

The Bureau prepared a 1996 Idaho income tax return on behalf of the taxpayer. The amount of income used to determine the tax due was arrived at after examining certain bank records [Redacted] identifying forgiveness of debt and interest by the U. S. Department of Agriculture, Farm Service Bureau. In the letter protesting the deficiency determination, the POA acknowledged the taxpayer received a write down of a federal farm loan. However, she claimed ranch expenses would offset most of the income. The Tax Commission has received nothing that would support a reduction in the tax amount shown in the deficiency notice.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Commission, 110 Idaho 572 (Ct. App. 1986).

The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertsons, 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 taxes, penalties, and interest for 1996:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$7,523	\$1,881	\$2,363	\$11,767

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

An explanation of 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 BY MAIL

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]

[Redacted]

[Redacted]

[Redacted]

ADMINISTRATIVE ASSISTANT 1