

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14279
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On October 19, 1999, 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 \$68,270.

On November 19, 1999, 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.

The Tax Discovery Bureau (Bureau) received a referral from another bureau of the Tax Commission that the taxpayer had not filed Idaho individual income tax returns for the years 1992 through 1997. The Bureau sent an inquiry letter to the taxpayer, but the taxpayer failed to respond. The Bureau gathered the available information on the taxpayer and determined the taxpayer had a filing requirement for taxable years 1992 through 1997. The Bureau prepared returns for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer appealed the Bureau's determination stating the income figures were erroneous and fictitious. He stated for the years 1992 through August 1995 he was in prison under the control of the Idaho State Board of Corrections. The taxpayer stated that while he was in prison he made \$40 a month. The taxpayer also stated he filed bankruptcy.

The Tax Commission verified the time the taxpayer stated he was in prison. The Tax Commission also verified that the taxpayer filed bankruptcy. The taxpayer filed a Chapter 7, No Asset Bankruptcy, which was discharged in January 1999 and completed in February 1999.

The taxpayer's history prior to his prison time was that he was the sole proprietor of a construction business. It was through this construction business that the taxpayer had prior contact with the Tax Commission and which brought this matter to the attention of the Bureau. Apparently, the taxpayer got involved with some less than honorable individuals in his business, which led to the taxpayer spending time in prison. The record does not contain any information that shows the taxpayer's business continued while the taxpayer was incarcerated. In fact, the taxpayer stated that, while he was in prison, his family survived by borrowing money from his mother and by government assistance.

The Bureau's determination of the taxpayer's Idaho income tax liability came from information the taxpayer supplied a lending institution on the purchase of a vehicle. The taxpayer stated on a loan application in 1999 that his gross income was \$8,000 per month. The Bureau used this information as a reasonable estimate of the taxpayer's income for all the years in question.

From the information presented, the Tax Commission found the facts don't support the income estimate the Bureau developed for the years 1992 through 1995. During those years, the taxpayer was in and out of prison and the possibility of the taxpayer earning enough to file a return, let alone \$8,000 per month, is most likely an impossibility. Therefore, the Tax Commission hereby cancels the Notice of Deficiency Determination as it relates to tax years 1992 through 1995.

With regard to tax years 1996 and 1997, the Tax Commission does not believe the income information of 1999 is representative of the taxpayer's income for 1996 and 1997.

However, without documentation or other evidence from the taxpayer, the Tax Commission must determine whether the taxpayer was required to file Idaho income tax returns and the amount of his taxable income for 1996 and 1997.

On February 17, 2000, the taxpayer called the specialist working the case and stated his 1996 and 1997 returns should have been done and were located in storage. This statement gives the Tax Commission the impression the taxpayer thought he was required to file for those years and is sufficient for the Tax Commission to find the taxpayer had a filing requirement with the state of Idaho. Therefore, the only thing remaining is to determine the taxpayer's taxable income.

On numerous occasions the Tax Commission, through the Tax Discovery Bureau, has found it necessary to determine a taxpayer's taxable income when there was very little income information available. Loan applications, information return filings (W-2s, 1099s, etc.), sales tax filings, and Bureau of Labor Statistics are some of the sources of information the Tax Commission uses. Considering the circumstances of this case, the Tax Commission believes the closest approximation of the taxpayer's taxable income comes from using the Bureau of Labor Statistics data. The data used was for an individual in the construction trade with a high level of experience. This resulted in a more reasonable level of income for an individual with the taxpayer's circumstances. Since the taxpayer has presented nothing to show his taxable income, he has failed to meet his burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Therefore, the Tax Commission finds the use of the Bureau of Labor Statistics is an acceptable method for determining the taxpayer's taxable income for 1996 and 1997.

The Bureau added interest and penalty to the taxpayer's original Notice of Deficiency Determination. The Tax Commission reviewed those additions and found them appropriate per Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated October 19, 1999, is hereby MODIFIED, according to 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>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$2,708	\$677	\$ 966	\$4,351
1997	2,675	669	719	<u>4,063</u>
			TOTAL DUE	<u>\$8,414</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]
[REDACTED][REDACTED]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1