

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14674
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On March 29, 2000, the Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for taxable years 1993 through 1995 in the total amount of \$3,281.

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

During the years in question, the taxpayer failed to file Idaho individual income tax returns even though Tax Commission records show he satisfied the requirements stated in Idaho Code § 63-3030 for filing Idaho tax returns. [Redacted]. [Redacted]. The taxpayer had not filed his federal returns either.

Idaho Code § 63-3045 (1)(a) states:

63-3045. 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.

Because the taxpayer did not file state tax returns and did not answer correspondence from the Bureau, the Bureau prepared provisional returns and issued a deficiency notice. The income amounts were derived from information received from the Idaho Department of Labor and W-2s and 1099s that were issued to the taxpayer. Credit was allowed for the withholding that was shown in the W-2s, which was the only withholding identified in the Tax Commission's records.

The taxpayer responded to the notice by sending two separate letters and an executed Power of Attorney form. The taxpayer said he is presently traveling outside of the United States and would, therefore, like all correspondence sent to his power of attorney. The only reference he made to the determination was a statement about having "previous W-2s."

Idaho Code § 63-3013 defines and Idaho resident:

Resident. (1) The term "resident," for income tax purposes, means any individual who: (a) Is domiciled in the state of Idaho for the entire taxable year; or (b) Maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state. Presence within the state for any part of a calendar day shall constitute a day spent in the state unless the individual can show that his presence in the state for that day was for a temporary or transitory purpose.

According to Idaho Department of Labor records, the taxpayer received Idaho wages from the [Redacted] all three years. Those wages together with other income justified a determination that the taxpayer was required to file an Idaho income tax return for each year. The taxpayer has not denied he met the filing requirements and has not claimed that he filed his returns. Nothing has been received from the taxpayer or his representative. Mail to the taxpayer in care of his representative has gone unanswered.

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

Having presented no information in support of his argument, the taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Albertsons, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated March 29, 2000, is hereby 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>
1993	\$833	\$208	\$463	\$1,504
1994	789	197	368	1,354
1995	321	80	126	<u>527</u>
			TOTAL	<u>\$3,385</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 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]

ADMINISTRATIVE ASSISTANT 1