

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14716
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On March 16, 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 tax years 1994, 1997, and 1998 in the total amount of \$11,134.

The taxpayer protested the determination. The taxpayer did not request a hearing, but did provide actual returns for two of the three years in question. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Idaho Code § 63-3030 states:

63-3030. Persons required to make returns of income.
[EFFECTIVE UNTIL JANUARY 1, 1996] (a) Returns with respect to taxes measured by income in this act shall be made by the following:
(1) (A) Every resident individual having for the current taxable year a gross income, as defined by section 61(a) of the Internal Revenue Code, of one thousand dollars (\$1,000) or more, except that a return shall not be required of an individual (other than an individual referred to in section 6012(a)(1)(C) of the Internal Revenue Code)--

Information available to the Tax Commission indicated the taxpayer was an Idaho resident who met the filing requirements for filing Idaho resident income tax returns. Because the Tax Commission's files did not include the taxpayer's tax returns for any of the years in question, the Bureau prepared Idaho individual income tax returns on the taxpayer's behalf and issued a notice of deficiency, which the taxpayer appealed.

On April 24, 2000, the Bureau received Idaho individual income tax returns for 1996, 1997, and 1998 from the taxpayer. After verifying the accuracy of the returns, the Bureau notified the

taxpayer that the three returns were accepted as filed and the portion of the deficiency determination addressing two of those years was canceled. The 1997 and 1998 tax years will not be a part of this decision.

In the letter that accompanied the taxpayer's returns, he explained that he was, "attempting to bring all of my tax records up to date." He enclosed a W-2 for 1995 and a W-2 for 1994. He said he did not make \$80,000 in 1994 and asked for an explanation of how that income figure was determined. The Bureau wrote back to the taxpayer to explain the source of income as a real estate sale that was reported in a federal 1099 form issued to him in 1994.

On May 25, 2000, the Bureau received a copy of a real estate closing statement and a letter wherein the taxpayer described his earlier purchase and 1994 sale of a farm. He said he did not have any of the paperwork to support the expenses he incurred during his ownership of the farm because he had moved several times since then. He asked the Bureau to consider as income only the money he realized from the sale rather than the sale price that was reflected in the 1099. He admitted he did not purchase another residence with the proceeds from the sale. He stated: "Unfortunately, I used the money to live on and didn't invest any of it."

The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter from the Tax Appeals Specialist that outlined his appeal rights. Nothing further has been received from the taxpayer.

The taxpayer's Idaho income tax responsibility was calculated based on the Tax Commission's own income records and the income amounts reported in W-2s and 1099s issued to the taxpayer. The federal records were made available to the Tax Commission pursuant to Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

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).

The taxpayer has failed to file an Idaho return for 1994. However, after scrutinizing the real estate closing statement, the Tax Commission recognizes the taxpayer's capital gains as a result of the sale of his farm was an amount less than the total shown in the 1099 issued to the taxpayer.

Absent information to the contrary, the Tax Commission calculates the taxpayer's 1994 Idaho individual income tax due using the income amount shown in the taxpayer's W-2 plus the adjusted total capital gains. The withholding identified in the W-2 is allowed to offset a portion of the tax due.

WHEREFORE, the Notice of Deficiency Determination dated March 16, 2000, is hereby MODIFIED 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>
1994	\$1,632	\$408	\$761	\$2,801

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] Receipt No. [Redacted]
[REDACTED][REDACTED]

ADMINISTRATIVE ASSISTANT 1