

may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

After receiving the notice, the taxpayers sent a letter to the Bureau protesting the determination. In that letter, the taxpayers said, "Our copy of the Idaho Tax return shows that we owed \$946.00. This amount was paid in full when the tax return was filed. A similar situation exists with the 1998 return. Our 1998 Idaho tax return shows us owing \$3103.00. This amount has not been paid and is still owing to the State."

The Bureau acknowledged the taxpayers' protest by letter wherein the Bureau advised the taxpayers that neither of the returns or the \$946 payment could be located in Tax Commission records. The Bureau asked the taxpayers to provide a copy of the canceled check and a copy of each of the tax returns. When the Bureau received no response to that letter and one additional letter, the taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-3032(1)(a) explains the time requirements for filing Idaho income tax returns:

63-3032. Time for filing income tax returns. (1) Except as provided in section 63-3033, Idaho Code:

(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

In response to a letter that advised the taxpayers of their rights regarding their appeal, the taxpayers telephoned the Tax Commission and established a date and time to meet with the Tax Appeals Specialist for an informal conference. A letter was sent to the taxpayers confirming the date and time. The taxpayers did not appear for that conference and have not contacted the Tax

Commission since the telephone call requesting the meeting.

According to Tax Commission records, the taxpayers met the requirements for filing an Idaho resident income tax return for 1996 and 1998. They filed Idaho resident income tax returns for the years 1993 through 1995 and 1997. However, for the years 1996 and 1998 the taxpayers filed extensions of the time to file and even submitted an \$864 payment with their 1996 extension request but did not file an Idaho return for either year. Their 1997 Idaho return was submitted timely without payment. It was fully paid in 1999.

[Redacted] during the years at issue the taxpayers were associated with more than one Idaho business from which they received both wages and other income. The amounts shown in the deficiency notice were determined considering this information. The taxpayers have not denied that they have a filing requirement or that the income amounts are incorrect. The taxpayers have submitted nothing that would dispute the amount of Idaho income taxes, penalties, and interest shown in the deficiency notice as a result of that income. Their only contention has been that they have already filed their returns.

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 their argument, the taxpayers have failed to meet their burden of proving error on the part of the deficiency determination. Albertsons, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

Absent evidence to the contrary, the 1996 and 1998 Idaho individual income tax returns that were prepared by the Bureau based on income information shown in the Tax Commission's records [Redacted] are accepted as prepared.

WHEREFORE, the Notice of Deficiency Determination dated April 25, 2000 is APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following taxes, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$ 3,913	\$ 978	\$1,127	\$ 6,018
1998	12,130	3,033	1,500	<u>16,663</u>
			TOTAL	\$22,681

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

An explanation of taxpayers' right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2000.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2000, 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] _____