

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14891
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On April 17, 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 the taxable years 1992 through 1998 in the total amount of \$33,699.

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.

Idaho Code § 63-3013 defines an Idaho resident as:

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.

The taxpayer does not deny he was a resident of Idaho during the years at issue. Idaho Code § 63-3030(1)(2) explains persons required to file Idaho income tax returns as:

63-3030. Persons required to make returns of income. (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources

while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

According to Tax Commission records, the taxpayer owned and operated an Idaho business known as [Redacted] and was partner in a company known as [Redacted] during the years in question. Neither company has ever filed an income tax return.

The taxpayer failed to file Idaho individual income tax returns. [Redacted] 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 as a result of serving a summons on a lending institution as well as the Tax Commission's own records.

The taxpayer protested the determination of income and asked for additional time to: "acquire [sic] the proper information and paperwork as to have a true assessment." The Bureau wrote a letter back to the taxpayer that acknowledged his protest and allowed him additional time to collect the records and prepare and submit the returns.

When the promised returns did not arrive at the Tax Commission, the Bureau mailed two

additional letters to the taxpayer asking for the returns to be filed. On October 11, 2000, the taxpayer telephoned the Bureau to report that he had turned his records over to an accounting firm six weeks prior. He said he would contact the firm and ask for an expected completion date and, then, telephone the Bureau with the target date. The taxpayer sent another letter dated December 4, 2000 wherein he explained that the accountants were still looking for 1099's. He said the accounting firm had, "... found a few years back. They are currently sending these to me so I can get as much taken care of at this time. This is where I'm at and having not done this I'm not sure when I'll have them done but it will be as soon as possible." That is the last contact the Tax Commission has had with the taxpayer. He did not acknowledge the letter from the Legal/Tax Policy Division that offered him options for resolving his appeal.

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 April 17, 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>
1992	\$2,703	\$ 676	\$1,807	\$ 5,186
1993	5,011	1,253	2,822	9,086
1994	2,674	669	1,247	4,590
1995	2,662	666	1,065	4,393
1996	2,649	662	841	4,152
1997	2,629	657	605	3,891
1998	2,617	654	401	<u>3,672</u>

TOTAL \$35,516

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