

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14909
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On May 9, 2000, the Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income taxes, penalties, and interest for taxable years 1994 through 1997 in the total amount of \$8,158.

The taxpayers filed a timely protest. They 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 taxpayers failed to file Idaho individual income tax returns even though Tax Commission records show they satisfied the requirements stated in Idaho Code § 63-3030 for filing Idaho tax returns. [Redacted]. The taxpayers had not filed their federal returns for the years 1995 through 1997.

Because the taxpayers did not file state tax returns and did not answer correspondence from the Bureau, the Bureau prepared provisional returns and issued a deficiency notice based upon information gleaned from Tax Commission records. [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.

In response to the deficiency notice, [Redacted] telephoned the Bureau. She said she agreed with the amount of income and Idaho taxes due for the years 1994 and 1995 but did not agree with the figures for 1996 and 1997. She said they were in Washington during those two years. The taxpayers followed that telephone call with a letter that said in its entirety: "This letter is in written request to protest notice of deficiency determination dated May 9, 2000. We wish to file taxes for the years 1994, 1995, 1996, 1997, 1998, and 1999. Thank you for your time and help in these matters and please send the booklets for the above years." Pursuant to their request, the Bureau mailed the taxpayers a resident income tax form with instructions for each of the years at issue. The Tax Commission has not heard from the taxpayers since the forms were sent.

The Bureau received from the Kootenai County Assessor's office a copy of an application for a homeowner's exemption that the taxpayers signed in 1992. The County records show the taxpayers did indeed receive that exemption in 1992 and every year thereafter through 1997. The homeowner's exemption is a benefit reserved for persons who own and occupy a home within Idaho's borders. In addition, Kootenai County election records show the taxpayers both registered to vote in 1992. [Redacted] voted in Kootenai County in 1992, 1994, 1996, and 1998. [Redacted] voted in 1996 and 1998.

Idaho Code § 63-3002 explains the income tax act:

63-3002. Declaration of intent. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable

income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law;

Idaho Code § 63-3013 defines an 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.

The taxpayers claimed to be residents of Idaho when they applied for the homeowner's exemption and when they registered to vote and voted. They have not denied they met the filing requirements. The taxpayers have not filed Idaho income tax returns for any of the years 1994 through 1997.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'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).

WHEREFORE, the Notice of Deficiency Determination dated May 9, 2000, is hereby 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>
1994	\$ 641	\$160	\$298	\$1,099
1995	541	135	209	885
1996	1,218	305	371	1,894

1997	3080	770	669	<u>4,519</u>
			TOTAL	<u>\$8,397</u>

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

An explanation of the taxpayers' 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