

In the taxpayers' protest letter, the taxpayers stated they moved to Idaho in August 1994. The taxpayers stated they filed their 1994 return and received a refund from the State of Idaho. The taxpayers stated they moved back to Washington in August 1995. The taxpayers provided copies of [Redacted]W-2s to show their Idaho income and withholdings.

The Bureau contacted the taxpayers and told them the Tax Commission had no record of either the 1994 or 1995 return being filed. The Bureau also found no record of a refund issued to the taxpayers for 1994. The Bureau sent the taxpayers forms and instructions for them to prepare their returns. The taxpayers completed their returns and sent them to the Bureau. The Bureau looked at the taxpayers' returns and saw that the returns were prepared as Idaho full year residents. The Bureau corrected the taxpayers' returns to reflect a part-year resident status for both years and sent the returns back to the taxpayers for their approval.

The taxpayers did not respond to the corrected income tax returns. The Bureau sent the taxpayers two additional letters, to which the taxpayers did not respond. Included in one of the letters the Bureau sent to the taxpayers was a statement cancelling the Notice of Deficiency Determination for tax year 1994. The Bureau cancelled the 1994 liability because the corrected part-year resident return showed the taxpayers were due a refund. However, Idaho Code § 63-3035 prohibits refunding or crediting excess tax withholdings if a return is not filed within three (3) years from the due date of the return without regard to extensions. The due date for the 1994 return was April 15, 1995. The taxpayers submitted their 1994 return well beyond the three-year statute.

The Tax Commission's review of this matter found that the Bureau properly applied the provisions of the Idaho Income Tax Act to the taxpayers' situation for both 1994 and 1995. The

Tax Commission agreed with the Bureau's part-year treatment and its computation of the taxpayers' Idaho income tax.

The Bureau added interest and penalty to the taxpayers' 1995 return. The Tax Commission found these additions were properly applied as set forth in Idaho Code §§ 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated February 1, 2000, is hereby MODIFIED, in accordance with the provisions of this decision, 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>
1995	\$ 436	\$ 109	\$ 172	\$ 717

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

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

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]Certified Mail No. 7099 3400 0008 2504 0205
[REDACTED]
