

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14962
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On June 7, 2000, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 1995 through 1997, in the total amount of \$24,517.

On August 8, 2000, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing and did not submit any additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

While reviewing information the Tax Commission received, the Bureau found that the taxpayers received income in 1997 but failed to file an Idaho individual income tax return. Further research showed the taxpayers had not filed Idaho income tax returns since 1994. The Bureau sent inquiries to the taxpayers but they failed to respond. So the Bureau estimated the taxpayers' income based upon the information available and sent them a Notice of Deficiency Determination for the taxable years 1995 through 1997.

The taxpayers appealed the Bureau's determination and requested additional time to compile their records. A month later, the taxpayers submitted a return for 1995 and stated that the returns for 1996 and 1997 would follow in about a week. The Bureau waited for the 1996 and 1997 returns but they never came. Therefore, the Bureau sent the taxpayers a notice that

their 1995 return was accepted, subject to the Tax Commission's normal review. The Bureau cancelled the Notice of Deficiency Determination for 1995, and referred the taxpayers' case for administrative review.

The Tax Commission sent the taxpayers a letter setting forth two alternative methods for redetermining protested Notices of Deficiency Determination. The taxpayers did not respond, so the Tax Commission called Mr. [Redacted] and faxed him a copy of the letter. Mr. [Redacted] stated he would contact the Tax Commission by the end of the week to work on a resolution of the matter. Mr. [Redacted] did not contact the Tax Commission so the Tax Commission sent the taxpayers another letter asking them to contact the Tax Commission. The taxpayers failed to respond. Therefore, the Tax Commission decided this matter based upon the information available.

Idaho Code section 63-3002 requires Idaho residents to report all income from all sources wherever derived. Idaho Code section 63-3013 defines a resident as any individual who resided in the state for the entire taxable year or is domiciled in the state of Idaho. In 1994, the taxpayers moved to Idaho as evidenced by the part-year resident return they filed. Further evidence of the taxpayers' Idaho residence is the resident return the taxpayers submitted to the Bureau for 1995. The taxpayers also applied for and received the homeowner's exemption in 1995.

The taxpayers' 1994 and 1995 returns showed Mr. [Redacted] was the sole proprietor of a management recruiting business. In 1994, the business had gross income in excess of \$84,000. In 1995, the business net income was \$137,008. The Bureau based its determination on the taxpayers' 1994 schedule C gross income. This income was for only the four months the taxpayers were in Idaho. The Bureau did not have the advantage of seeing a full years' business for the taxpayers as was shown on the taxpayers' 1995 schedule C. Therefore, the Bureau's

income estimate for 1995 was low. The Bureau assumed in its determination that the taxpayers' income remained at least at the level of 1994. However, looking at the taxpayer's 1994 and 1995 returns, the Tax Commission is of the opinion the taxpayers' income steadily increased from 1995 to 1997.

The taxpayers did not provide income tax returns or any additional information on their 1996 or 1997 taxable years. Therefore, they failed to meet their burden of proving error on the part of the deficiency determination for 1996 or 1997. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Normally, the Tax Commission would uphold the Bureau's determination simply because the taxpayers failed to show error in the Bureau's determination. However, in this case the Tax Commission believes the estimate used by the Bureau is not reflective of the taxpayers' income for 1996 or 1997. Therefore, the Tax Commission modified the Bureau's determination of income to reflect a full year of business operations as shown on the taxpayers' 1995 return.

The Bureau's determination included additions to the taxpayers' tax for interest and penalty as provided for in Idaho Code sections 63-3045 and 63-3046. The Tax Commission finds these additions appropriate and included the additions in its modified determination.

WHEREFORE, the Notice of Deficiency Determination dated June 7, 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 taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$8,846	\$2,212	\$3,152	\$ 14,210
1997	8,780	2,195	2,362	<u>13,337</u>
			TOTAL DUE	<u>\$27,547</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 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