

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 15062
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On July 17, 2000, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income taxes, penalties, and interest for the taxable years 1996 through 1998 in the total amount of \$5,938.

On September 15, 2000, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather submitted income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) found while reviewing the Tax Commission's records that the taxpayers stopped filing Idaho income tax returns after filing their 1994 Idaho income tax return. The Bureau gathered information on the taxpayers and determined the taxpayers may have had an Idaho filing requirement for the taxable years 1996 through 1998. The Bureau sent the taxpayers a letter asking if they had a filing requirement with the state of Idaho. The taxpayers responded that the returns had been filed.

Unable to find the taxpayers' returns in the Tax Commission's records, the Bureau sent the taxpayers a Notice of Deficiency Determination [Redacted]. The taxpayers protested the Bureau's determination and stated they would submit returns.

The taxpayers failed to submit their returns within the time agreed to by the Bureau, so the taxpayers' case was submitted for administrative review. The Tax Commission contacted the taxpayers setting forth the options available for redetermining their case. The taxpayers responded by submitting their returns and a letter of explanation.

The taxpayers submitted returns for the taxable years 1995 through 1998. The Tax Commission reviewed the taxpayers' returns and found them to be a better representation of the taxpayers' taxable income for all the years. The taxpayers' 1995, 1997, and 1998 returns resulted in refunds due to the taxpayers. On the taxpayers' 1995 return, the taxpayers wanted the 1995 refund applied as an estimated tax payment to their 1996 tax year. However, Idaho Code §§ 63-3035(e) and 63-3072(c) prohibit the refunding or crediting of overpayments of tax if a claim for the overpayments is not made within three (3) years from the due date of the return.

The taxpayers' 1995 return had a due date of April 15, 1996. The taxpayers did not submit their 1995 return until January 29, 2001. This is well beyond the three-year statute for refunding or crediting the overpayment. Therefore, the Tax Commission did not allow the 1995 refund as shown on the taxpayers' return.

The taxpayers' 1996 return showed a tax due prior to any changes made by the Tax Commission. Since the 1995 refund cannot be carried over as an estimated tax payment for 1996, the amount of the tax due for 1996 was increased. Idaho Code §§ 63-3045 and 63-3046 provides for the addition of interest and penalty on tax due amounts on income tax returns that were not filed by their due dates. Therefore, the Tax Commission adds interest and penalty to the amount due for 1996.

WHEREFORE, the Notice of Deficiency Determination dated July 17, 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	\$941	\$235	\$226	\$1,402
1997	<476>			<476>
1998	<290>			<290>
BALANCE DUE				<u>\$ 636</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

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]

\_\_\_\_\_  
ADMINISTRATIVE ASSISTANT 1