

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 15071
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On August 16, 2000, 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 year 1994 in the amount of \$1,353.

[Redacted] ([Redacted]) filed a timely protest wherein he requested a telephone conference. However, neither taxpayer submitted additional information. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

[Redacted]. Internal Revenue Code § 6103(d) allowed the IRS to share the federal income information with the Bureau for limited purposes. The Bureau identified the taxpayers as Idaho residents who filed a 1994 federal income tax return and did not file an Idaho return.

Idaho Code. § 63-3045 (1)(a) stated:

**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.

The Bureau issued a deficiency determination, which [Redacted] appealed. In his initial

protest letter, [Redacted] explained that he and [Redacted] were no longer married and neither of them resides in the state of Idaho. He said he had filed both the federal and the Idaho returns for 1994. He said he contacted H and R Block (his tax returns were prepared by this preparer during the years surrounding 1994), [Redacted] Bank (his bank during the year in question), and an attorney (the attorney was on retainer during this time) in an effort to secure a copy of either return. He said none of these sources had a copy of the taxpayers' 1994 individual income tax returns. He said he was certain he had filed his 1994 federal and state returns and paid the tax due shown in each return. He offered that it did not make sense that he would have filed a federal return and not a state return. He said he would seek legal counsel if necessary to remedy the situation.

The Bureau wrote back to [Redacted] and asked him to provide a copy of the return or W-2s or a copy of the canceled check to substantiate the filing of the return and payment of the additional tax that was due.

When [Redacted] did not respond, the taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review. On April 20, 2001, a telephone conference was held with [Redacted]. Again, [Redacted] expressed his exasperation with the situation. He questioned why it took so long for the Tax Commission to realize the return had not been filed and stated that he did not think it made any sense that he would have filed his federal return and not his state return. When he was told there was no record of the return or the payment, he said he would consider offering a lesser amount to settle the matter without further delay because he was sure he had filed the return when it was due. The Tax Commission has had no further contact with the taxpayer.

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). The burden is on the taxpayers to show that the tax deficiency is erroneous. Albertson's, Inc. v. State,

Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated August 16, 2000, is APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest for 1994:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$795	\$199	\$371	\$1,365

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

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COMMISSIONER

**CERTIFICATE OF SERVICE**

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]                      Receipt No. [Redacted]  
[REDACTED][Redacted]

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ADMINISTRATIVE ASSISTANT 1