

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15137
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On June 15, 2000, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for taxable years 1995 through 1998 in the total amount of \$4,706.

The taxpayer protested the determination. The taxpayer did not request a hearing but did provide actual returns for two of the four years in question. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Idaho Code § 63-3030 states:

63-3030. Persons required to make returns of income. [EFFECTIVE UNTIL JANUARY 1, 1996] (a) Returns with respect to taxes measured by income in this act shall be made by the following:

(1) (A) Every resident individual having for the current taxable year a gross income, as defined by section 61(a) of the Internal Revenue Code, of one thousand dollars (\$1,000) or more, except that a return shall not be required of an individual (other than an individual referred to in section 6012(a)(1)(C) of the Internal Revenue Code —

63-3030. Persons required to make returns of income. (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

Information available to the Tax Commission indicated the taxpayer was an Idaho resident who met the filing requirements for filing Idaho resident income tax returns. Because the Tax Commission's files did not include the taxpayer's tax returns for any of the years in question, the Bureau prepared Idaho individual income tax returns on the taxpayer's behalf and issued a notice of deficiency.

On July 17, 2000, the Bureau received Idaho individual income tax returns for 1995 and 1996 from the taxpayer. Each return included a copy of the taxpayer's federal return, which had not yet been filed. After verifying the accuracy of the returns, the Bureau notified the taxpayer that the two returns were accepted as filed and the portion of the deficiency determination addressing those years was canceled. The 1995 and 1996 tax years will not be a part of this decision.

The Bureau accepted the taxpayer's 1995 and 1996 Idaho returns as a protest to the deficiency determination. However, when nothing more was received from the taxpayer and he did not answer additional letters, his file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter from the Tax Appeals Specialist that outlined his appeal rights. Nothing further has been received from the taxpayer.

During the years at issue, the taxpayer was half of a partnership doing business in Idaho. Neither the partnership nor the taxpayer filed federal or state income tax returns. Because federal and state income records were incomplete, the taxpayer's Idaho income tax responsibility was calculated using an average of the income he reported in his Idaho returns for the years 1992 through 1994. The federal records were made available to the Tax Commission pursuant to Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

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 taxpayer 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 June 15, 2000, is hereby MODIFIED 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>
1997	\$786	\$197	\$191	\$1,174
1998	775	194	129	<u>1,098</u>
			TOTAL	<u>\$2,272</u>

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

An explanation of the taxpayer's 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]
[REDACTED][REDACTED]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1