

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 15159
[Redacted],	)	
	)	DECISION
Petitioner.	)	
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On August 28, 2000, the Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for 1997 and 1998 in the total amount of \$27,419.

The taxpayer filed a timely protest. However, he did not request a hearing and did not submit additional information. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

The taxpayer, a resident of Idaho during both years, appeared to meet the requirements for filing Idaho individual income tax returns. Because he did not file Idaho tax returns and did not answer correspondence, the Bureau issued a deficiency determination.

Idaho Code § 63-3045 (1)(a) states:

**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.

When the taxpayer received the notice, he wrote a letter of protest to the Bureau. He said he suffered business losses both years, which was reflected in the returns his bookkeeper had filed on his behalf. He said the Bureau should contact his bookkeeper at [Redacted] if there were any further questions. The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to any of the letters sent to him after he filed his appeal.

The Tax Appeals Specialist (Specialist) telephoned [Redacted] because letters to the taxpayer did not produce a response and the taxpayer's telephone number could not be identified,. [Redacted] said she had furnished an executed Power of Attorney form to the Tax Commission's local office. The Specialist promised to recontact [Redacted] after the terms of the Power of Attorney had been verified.

Unfortunately, the Power of Attorney form (which was located in the records of the field office) granted the Tax Commission the right to discuss only the business, [Redacted], with [Redacted] dba [Redacted] and only until the business permits were canceled. The business permits were canceled in late 1999. The Specialist did not contact the taxpayer's former bookkeeper again.

The last available information shows the taxpayer no longer lives in Idaho. Tax Commission records show that, at the time he ceased doing business and left the state, the taxpayer's business owed sales and/or withholding taxes to the state of Idaho. These taxes were paid by a new owner of the business in order to secure the release of the lien that had been placed on the liquor license.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Commission, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertsons, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The deficiency notice and tax returns prepared by the Bureau were computed using the gross

receipts of [Redacted], a sole proprietorship owned by the taxpayer. Neither the taxpayer nor his business, [Redacted], has filed income tax returns for the years 1997 and 1998.

WHEREFORE, the Notice of Deficiency Determination dated August 28, 2000, 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	\$ 7,816	\$1,954	\$1,773	\$11,543
1998	11,772	2,943	1,763	<u>16,478</u>
			<b>TOTAL</b>	<u><b>\$28,021</b></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] Receipt No. [Redacted]  
[REDACTED][REDACTED] \_\_\_\_\_

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