

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15296
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On October 10, 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 1996 through 1998 in the total amount of \$30,417.

The taxpayer filed a timely protest and an informal conference was scheduled. However, the taxpayer's representative canceled the hearing without submitting any 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 all three 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 came to the Tax Commission offices and met with one of the Tax Enforcement Specialists. He said he was aware of his filing requirement because he had been working with the Tax Commission's collection department to resolve income tax liabilities for other years. Later that same day, the taxpayer delivered a written protest regarding the deficiency determination. In that letter, he said the income amounts that were used to determine the tax due shown in the notice were too high and did not allow for the deduction of reasonable and necessary business expenses.

On January 11, 2001, the Bureau received a letter from an attorney and an executed Power of Attorney form. The representative asked the Specialist to hold the taxpayer's deficiency notice and protest in abeyance for a period of time to allow him the opportunity to prepare and file actual Idaho returns. He said the taxpayer would then negotiate a payment arrangement to take care of the resulting tax due. The representative said the taxpayer was to have the information needed for the preparation of the returns to him by "next week."

After considerable time passed without the Bureau receiving any information from either the taxpayer or his representative, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

In response to a letter from the Legal/Tax Policy Division wherein the taxpayer was advised of his appeal rights, the taxpayer's representative telephoned the Tax Appeals Specialist. An informal conference was scheduled for April 17th. However, the day before the conference was to be held, the representative telephoned to say the taxpayer wished to submit returns. Therefore, he did not think a conference would be necessary. The representative promised to submit all of the missing returns within one month. The Tax Commission has not heard from the taxpayer or his representative since the telephone call on April 16th. The taxpayer has not filed an Idaho income tax

return for any of the years at issue.

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).

[Redacted]. The taxpayer reportedly received nonemployee compensation while working as a framer doing business as [Redacted]. Research by the Tax Commission's collection department confirms the taxpayer was and continues to be a self-employed framer who has not filed federal or state income tax returns for the last five years. Absent evidence to the contrary, the Tax Commission upholds the Bureau's determination of the taxpayer's income and Idaho income tax responsibility for each of the years in question.

WHEREFORE, the Notice of Deficiency Determination dated October 10, 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>
1996	\$5,353	\$1,338	\$1,770	\$ 8,461
1997	8,182	2,046	1,993	12,221
1998	7,462	1,866	945	<u>10,273</u>
			TOTAL	<u>\$30,955</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 enclosed with this decision.

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

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

ADMINISTRATIVE ASSISTANT 1