

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 15366
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On January 19, 2001, 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 and 1996 in the total amount of \$3,245.

The taxpayer filed a timely protest. She requested a telephone conference, which was held on May 1, 2001. The taxpayer did not submit additional information. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

The Tax Commission received a 1999 Idaho part-year resident income tax return from the taxpayer reflecting additional Idaho tax due. Because the return was received without payment, the taxpayer's return was forwarded to the Tax Commission's Compliance Bureau for collection of the monies due.

In the course of setting up a collection account for a taxpayer who has asked to make payments on a tax liability rather than pay the amount in full, it is customary to investigate a taxpayer's filing and payment history. During this routine research, the compliance staff discovered the Tax Commission had no record of the taxpayer's 1994, 1995, or 1996 Idaho individual income tax returns even though the Tax Commission's record showed the taxpayer satisfied the requirements stated in Idaho Code § 63-3030 for filing Idaho tax returns.

The compliance staff contacted the taxpayer for information regarding the missing returns.

In response, the taxpayer sent a copy of each of her federal returns. She did not send copies of Idaho returns. Using the information contained in the federal returns, the compliance staff prepared Idaho returns on behalf of the taxpayer, stapled the Idaho returns to the taxpayer's federal returns, and sent them all to the taxpayer for signature. The taxpayer did not send any of the returns back to the Tax Commission. She did, however, telephone the compliance staff. She said she would not sign the returns or send them back to the Tax Commission because she did not feel she owed additional taxes to Idaho. The Compliance staff referred the taxpayer's information to the Bureau for follow-up.

When the Bureau contacted the taxpayer she said she was very angry over the compliance staff's request for payments on past years. She said when she left Idaho she was in good standing and owed no taxes. She asked to be placed on the payment schedule that she had requested initially in order to retire the outstanding balance for 1999.

[Redacted]. The information was provided in accordance with Internal Revenue Code § 63-6103(d) and Idaho Code § 63-3077.

Idaho Code § 63-3045 (1)(a) states:

**63-3045. 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.

Because the Tax Commission's records did not include state tax returns for the years at issue, the Bureau prepared provisional returns and issued a deficiency notice. The deficiency notice did

not include an amount for 1994 because the calculation (using the figures reported by the taxpayer in her federal return) resulted in a refund. Idaho Code §§ 63-3035(e) and 63-3072(c) limit the time allowed to claim a credit or refund of withholding and/or taxes.

The taxpayer responded to the notice by sending a letter stating she did not owe Idaho income taxes for any years but 1999. She said she was in good standing with state taxes when she left the state of Idaho in 1999. She said it was obvious the State Tax Commission agreed with her because, "I never heard one word from you about owing any back taxes or they would have been paid." The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

During the telephone conference with the taxpayer, she said she could not understand why the Tax Commission had not contacted her earlier if she owed taxes to Idaho. She said she would absolutely not pay any penalty or interest.

According to Idaho Department of Labor records, [Redacted] and the federal returns submitted by the taxpayer, the taxpayer received wages from Idaho sources in excess of the filing requirements during both 1995 and 1996 justifying a determination that the taxpayer was required to file Idaho income tax returns. Other than an application for an extension of the time to file for 1996, the Tax Commission has no record of the taxpayer's Idaho income tax returns for either year.

The taxpayer has not denied she met the filing requirements nor has she claimed that she filed the missing returns. The taxpayer states that she should have been notified sooner if she owed money to the state of Idaho. She has not furnished copies of her Idaho returns or proof of payment of the additional tax due.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986).

Having presented no information in support of her argument, the taxpayer has failed to meet her burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated January 19, 2001, is hereby 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>
1995	\$1,004	\$251	\$421	\$1,676
1996	1,018	255	343	<u>1,616</u>
			TOTAL	<u>\$3,292</u>

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

An explanation of 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] Receipt No. [Redacted] \_\_\_\_\_

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