

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15068
[REDACTED])	
)	DECISION
Petitioner.)	
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On July 21, 2000, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1995 through 1998 in the total amount of \$12,482.

On September 22, 2000, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but stated additional documents would be provided. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer filed a request for an extension of time for filing his 1997 Idaho income tax return. However, the taxpayer never followed up the extension with an income tax return. The Tax Discovery Bureau (Bureau) found that the taxpayer had not filed his 1997 return as well as his 1995, 1996, and 1998 returns. The Bureau sent the taxpayer a letter asking him about his filing requirement with the state of Idaho but the taxpayer failed to respond. The Bureau gathered additional information on the taxpayer and determined he did have a requirement to file Idaho income tax returns.

The Bureau prepared returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer protested the Bureau's determination stating that the Bureau did not give any consideration for miscellaneous expenses, dependents, tax withheld, and other things not listed. The taxpayer stated he generally files a joint return and has done so since 1987.

He stated that he and his wife were working with an accountant to get his return information current.

The Bureau acknowledged the taxpayer's protest and gave him additional time to provide returns or additional information. The taxpayer failed to provide anything. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded saying additional documentation would be provided by July 31, 2001. The Tax Commission allowed the taxpayer the time he needed and, on August 2, 2001, the taxpayer sent the Tax Commission another letter stating he did not have his information together. The taxpayer stated he and his wife unexpectedly lost their jobs. They found work in [Redacted]; however, all their paperwork was in storage in Idaho. They planned to be back in Idaho in October and at that time they would be able to put their information together.

The Tax Commission responded to the taxpayer's letter giving him until November 2001 to submit the documentation. On November 23, 2001, the taxpayer sent the Tax Commission another letter stating that it was more difficult than he had first believed to get the records he needed. The taxpayer said he would have it all together by the end of the year. The taxpayer did not meet that commitment.

However, on March 19, 2002, the taxpayer's accountant contacted the Tax Commission. The taxpayer's accountant requested all the information the Tax Commission had on the taxpayer in order to prepare his returns. After receiving a power of attorney for the accountant, the Tax Commission provided the information to the accountant. The Tax Commission continued corresponding with the accountant and on July 11, 2002, the taxpayer provided a 1995 income

tax return. In addition to the taxpayer's individual income tax return, the taxpayer provided a 1995 partnership return.

The Tax Commission allowed the accountant additional time to prepare the other years' returns, but no additional returns were provided. Therefore, the Tax Commission, seeing that the taxpayer had ample time to submit his additional documentation, decided the matter based upon the information available in the file.

The taxpayer did not contest his filing requirement with the state of Idaho. The taxpayer's only arguments were that the Bureau did not allow him miscellaneous expenses, dependents, tax withholdings, and a joint filing with his wife. The taxpayer did provide a 1995 return for the Tax Commission to consider; however, nothing else was provided.

The Tax Commission found the taxpayer's 1995 return was a better representation of the taxpayer's taxable income than the return prepared by the Bureau. Therefore, the Tax Commission accepted the taxpayer's 1995 return, subject to the normal review process of the Tax Commission, in lieu of the return the Bureau prepared for 1995.

The taxpayer's 1995 return resulted in a refund to the taxpayer. However, Idaho Code section 63-3072 prohibits crediting or refunding any tax if a claim is not made within three years of the due date of the return. The taxpayer's 1995 return was due on April 15, 1996. The Tax Commission did not receive the taxpayer's 1995 return until July 11, 2002, well past the three-year statute of limitations. Therefore, the Tax Commission cannot allow the 1995 refund.

As for 1996 through 1998, the Tax Commission found that the taxpayer has failed to show the returns prepared by the Bureau were incorrect. He failed to meet his burden of proof.

Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846

(1984). Therefore, the Tax Commission upholds the Bureau's determination of the taxpayer's tax for 1996, 1997, and 1998.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Tax Commission reviewed those additions and found they were appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated July 21, 2000, is hereby MODIFIED, in accordance with the provisions of this decision 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>REFUND</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
1996		2,112	528	951	3,591
1997		2,096	524	761	3,381
1998		2,084	521	596	<u>3,201</u>
				TOTAL DUE	<u>\$10,173</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 _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2002, 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]
