

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 15212
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On September 28, 2000, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 1995 through 1998 in the total amount of \$11,954.

On November 22, 2000, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather chose to submit returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that showed the taxpayers received wages from an Idaho employer. The Bureau reviewed the Tax Commission's records and found the taxpayers did not file Idaho income tax returns for the taxable years 1995 through 1998. The Bureau sent the taxpayers a letter asking about their filing requirement but did not receive a response from the taxpayers.

The Bureau determined the taxpayers did have an Idaho filing requirement, [Redacted], and prepared returns for the taxpayers. The Bureau sent the taxpayers a Notice of Deficiency Determination, which the taxpayers protested. The taxpayers stated the Bureau's determination was "very much incorrect." The taxpayers implied they would send accurate returns.

After some time, the Bureau received a return for the tax year 1995 from the taxpayers. The taxpayers stated their 1996 return was almost completed but would not be done for a few weeks. The taxpayers also made the comment that there was no hurry to submit the 1997 and 1998 returns because the Tax Commission would owe them money. The Bureau then referred the matter for administrative review.

The Tax Commission sent the taxpayers a letter setting forth two alternative methods for having the Notice of Deficiency Determination redetermined. The taxpayers' response to the Tax Commission's letter was the submission of their 1996 return. A few months later, the Tax Commission followed up with the taxpayers giving them a deadline for submitting any other additional information or documentation. The taxpayers contacted the Tax Commission on the deadline date asking for an additional 30 days to submit their 1997 return. The taxpayers also stated they were still gathering information to file their 1998 return.

The Tax Commission allowed the taxpayers the additional time to submit their 1997 return. However, after the 30 days the taxpayers still had not submitted their 1997 return. The Tax Commission contacted the taxpayers and gave them another deadline for submitting both years' returns. Shortly after that deadline, the taxpayers submitted their 1997 return. With their 1997 return, the taxpayers included a statement that they were still gathering information for their 1998 return and would have it to the Tax Commission as soon as possible.

The Tax Commission decided to allow the taxpayers one last opportunity to submit a return for 1998. The Tax Commission sent the taxpayers a letter with a final date for submitting their return. That date passed and the taxpayers provided no return. Therefore, the Tax Commission decides this matter based upon the information currently available.

The Tax Commission reviewed the returns the taxpayers provided for the taxable years 1995 through 1997. The Tax Commission found these returns represented the taxpayers' taxable income better than the returns prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayers' returns, subject to the normal review processes of the Tax Commission, in lieu of the returns prepared by the Bureau.

The taxpayers did not provide a return for the tax year 1998 nor have they provided any other additional information regarding their 1998 tax year. The taxpayers have not met their burden of proof of showing the return prepared by the Bureau was incorrect. See Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Therefore, the Tax Commission upholds the Bureau's determination of the taxpayers' 1998 Idaho income tax liability.

The taxpayers' returns for 1995 through 1997 resulted in refunds. However, Idaho Code sections 63-3072 and 63-3035 states that a claim for credit or refund of tax must be made within three years of the due date of the return. The due date for the taxpayers' 1995 return was April 15, 1996. The Tax Commission received the taxpayers' 1995 return on January 29, 2001. The due date for the 1996 return was April 15, 1997. The taxpayers submitted their 1996 return on April 25, 2001. The 1997 return was due on April 15, 1998. The taxpayers mailed their 1997 return on November 13, 2001. All the returns the taxpayers submitted were past their respective statute dates for giving credit or issuing refunds. Therefore, the Tax Commission denies the refund claims on the taxpayers' 1995 through 1997 returns.

The Bureau added interest and penalty to the taxpayers' 1998 tax in accordance with Idaho Code sections 63-3045 and 63-3046. The Tax Commission reviewed these additions and found them to be appropriate.

WHEREFORE, the Notice of Deficiency Determination dated September 28, 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 taxpayers pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$ 0	\$ 0	\$ 0	\$ 0
1996	0	0	0	0
1997	0	0	0	0
1998	957	239	223	<u>1,419</u>
			TOTAL DUE	<u>\$1,419</u>

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

An explanation of the taxpayers' right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2002, 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]

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ADMINISTRATIVE ASSISTANT 1