

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15314
[Redacted],)	
)	DECISION
Petitioners.)	
)	
)	
)	
)	

On December 6, 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 1992, 1994, and 1996 in the total amount of \$3,319.

On January 9, 2001, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Tax Commission's hearing rights letter and have not provided any further documentation or information to be considered. 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 had wages from an Idaho employer. [Redacted]. The Bureau sent the taxpayers a letter asking about their Idaho filing requirements; however, the taxpayers failed to respond. The Bureau determined the taxpayers had an Idaho filing requirement for all the years 1992 through 1998. However, based upon the information available, the Bureau only prepared returns for the taxpayers for the taxable years 1992, 1994, and 1996. The other years, 1993, 1995, 1997, and 1998, the Bureau determined the taxpayers were entitled to refunds, which IDAPA Income Tax Administrative Rule 35.01.01.880.02 prohibits from issuing unless a taxpayer makes a claim for the refunds.

The Bureau sent the taxpayers a Notice of Deficiency Determination for the taxable years 1992, 1994, and 1996. The taxpayers protested the determination stating that they were residents of California in 1992 and that the Bureau's figures did not include withholdings for 1994 and 1996. The taxpayers stated they would be sending in documentation to support their withholdings.

The Bureau never received any additional documentation, so the matter was referred for administrative review. The Tax Commission sent the taxpayers a letter and a follow-up letter giving the taxpayers two options for having the Notice of Deficiency Determination redetermined. The taxpayers did not respond to either letter. Therefore, the Tax Commission decided the matter based upon the information available to the Tax Commission.

Shortly after the Bureau sent the taxpayers the Notice of Deficiency Determination, the taxpayers contacted the Bureau to discuss the matter. During that conversation, the taxpayers told the Bureau that they were residents of California in 1992. The Bureau questioned the taxpayers about their California residency and found that the reason the taxpayers' 1992 federal income tax return had an Idaho address was that the return was filed late, after the taxpayers had moved to Idaho. The Bureau accepted the taxpayers' explanation but did not cancel the Notice of Deficiency Determination for 1992. Therefore, the Tax Commission hereby cancels the Notice of Deficiency Determination as it pertains to the taxable year 1992.

During its review, the Tax Commission found additional withholdings for the taxable year 1994. This was the result of Mr. [Redacted] employer incorrectly entering Mr. [Redacted] social security number on his 1994 W-2 statement. Therefore, the Tax Commission allowed additional withholdings for 1994.

The additional withholdings for 1994 resulted in a refund due the taxpayers. However, Idaho Code section 63-3035 states that, for a refund or credit to be issued, the taxpayer must file

a return claiming the credit or refund within three years of the due date of the return. The taxpayers' 1994 return was due on April 15, 1995. The taxpayers have yet to file a return for the taxable year 1994 claiming a credit or refund.

As for the taxable year 1996, the taxpayers have provided nothing to document their withholdings or anything else that would show the return prepared by the Bureau was incorrect. Therefore, the taxpayers have not met their burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Absent information to the contrary, the Tax Commission finds the 1996 return prepared by the Bureau to be a reasonably accurate representation of the taxpayers' taxable income for 1996.

The Bureau also added interest and penalty to the taxpayers' returns in accordance with Idaho Code sections 63-3045 and 63-3046. The Tax Commission finds these additions appropriate for the tax year 1996 only. The tax years 1992 and 1994 have no tax liability so no additions to the tax are applicable.

WHEREFORE, the Notice of Deficiency Determination dated December 6, 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>
1994	\$ 0	\$ 0	\$ 0	\$ 0
1996	280	70	109	<u>459</u>
			TOTAL DUE	<u>\$459</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]

ADMINISTRATIVE ASSISTANT 1