

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 15496
[REDACTED]	)	
Petitioner.	)	DECISION
	)	
	)	

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On January 5, 2001, the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (the “taxpayer”), proposing additional income tax, penalty, and interest for tax year ending December 31, 1998, in the total amount of \$152,264.

On March 9, 2001, a timely protest and petition for redetermination was filed by the taxpayer. An informal conference was requested by the taxpayer and held on November 8, 2001.

The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the Notice of Deficiency Determination.

This taxpayer is a chronically late filer of income tax returns. It was the subject of our Decision in Docket No. [Redacted] regarding its returns for years 1994-1997. After that decision was issued, the taxpayer filed returns for those years showing net losses, and the Tax Commission agreed to adjust the deficiencies accordingly, subject to possible audit.

Here, the Tax Commission’s auditor has based the 1998 deficiency on amounts of gross receipts and payroll expenses shown in the taxpayer’s Idaho sales and payroll tax filings for 1998. The taxpayer’s representative stated at the informal conference that, as in the previous years, the taxpayer incurred costs of goods sold and overhead expenses sufficient to turn the profit found in the deficiency calculation into a loss. The Tax Commission has no reason to doubt this assertion.

However, the Tax Commission also has an obligation to treat taxpayers alike based on objective information submitted through proper channels and in proper form. The sales and payroll

data are such information. Any amounts of costs of goods sold and overhead expenses that the Tax Commission might employ to reduce the taxpayer's profit to a loss would be merely speculative estimates in the absence of a return in proper form signed by the taxpayer's officer.

The 1998 return being more than three years delinquent, and more than one year having passed since the issuance of the Notice of Deficiency Determination, the Tax Commission still lacks a basis to reduce it. The penalty for late filing is also affirmed.

WHEREFORE, the Notice of Deficiency Determination dated January 5, 2001, is hereby APPROVED, AFFIRMED and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following taxes, penalty, and interest (computed through July 19, 2002)(interest runs at \$24.12 per day):

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$110,347	\$27,587	\$27,399	\$165,333

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 \_\_\_\_\_, 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]

[Redacted]

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ADMINISTRATIVE ASSISTANT 1