

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15509
[Redacted])	
Petitioner.)	DECISION
)	
)	

On January 29, 2001, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for taxable years 1994 through 1998 in the total amount of \$11,777.

The taxpayers filed a timely appeal, but they did not request a hearing. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

The taxpayers were Idaho residents during all the years at issue. They filed a resident individual income tax return for 1993 but did not file federal or state income tax returns for any of the subsequent years. [Redacted] [Redacted]. [Redacted]. The transcript did not include wage information because both taxpayers were self-employed during the entire period. When the taxpayers did not respond to correspondence, the Bureau issued a Notice of Deficiency Determination.

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.

In response to the deficiency notice, the taxpayers sent a letter appealing the determination. In the letter, [Redacted] said they were working with their accountant to complete returns. He said they believe that their “estimation on Idaho tax liabilities for tax year 1994-1998 are sufficient.” He further offered that they hoped to have the returns completed within six months. When the Bureau did not receive the completed returns, the taxpayers’ file was transferred to the Legal/Tax Policy Division for administrative review.

On July 30, 2001, in response to a letter from the Tax Appeal Specialist, the taxpayers’ accountant’s office called to say the accountant was out of town and requested an additional stay. On August 7, 2001, the accountant telephoned the Tax Commission. At that time, the accountant said he had completed the 1994 return and would have the 1995 return completed by the following week. He agreed to submit all returns for filing within six weeks of that date. Completed 1994 and 1995 Idaho income tax returns were received on December 27, 2001. The taxpayers’ 1996 Idaho return was received on April 9, 2002.

[Redacted]. The taxpayers’ Idaho returns for 1994, 1995, and 1996 will be accepted as filed subject to examination during the period allowable under Idaho Code § 63-3068(a). All three returns showed credit for estimated tax payments. However, Idaho Code § 63-3072(c) limits the time allowed to claim a credit or refund:

63-3072. Credits and refunds. . . .

(c) Except as provided in subsection (e) of section 63-3035, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date

the return was filed. However, **with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.** (Emphasis added.)

The 1994 Idaho income tax return was due on April 15, 1995. The time for claiming any refund or credit of taxes for that year must have been made by April 15, 1998. The 1995 return was due on April 15, 1996. A claim for a credit or refund of taxes for 1995 must have been made no later than April 15, 1999. The 1996 Idaho return was due on April 15, 1997. Any claim for credit or refund of taxes paid for that year must have been made before April 15, 2000. The taxpayers' 1994 and 1995 Idaho income tax returns were not received until December 27, 2001, and the 1996 return was not received until April 9, 2002. The overpayments shown in the three returns will be allowed to offset each year's tax due. However, credits will not be applied to other years and no refunds will be issued.

Idaho Code § 63-3030 explains the income tax act:

63-3030. Persons required to make returns of income. (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code).

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

The taxpayers met the requirements for filing Idaho income tax returns for 1997 and 1998. They have not filed Idaho returns for either year. They state that their estimated payments will take care of any taxes owing. However, because the taxpayers are self-employed as sales persons, their income can fluctuate. Absent actual returns, the Tax Commission has little choice but to estimate the taxpayers' annual income.

Idaho Code § 63-3032 defines the time for filing returns:

63-3032. Time for filing income tax returns. (a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

(b) In the case of a return for any period of less than one (1) year, the return shall be filed on or before the date required in this section, or on or before such date as required for such tax period by the internal revenue code, whichever is later.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of their argument, the taxpayers have failed to meet their 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 29, 2001, is hereby MODIFIED 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
1995	0	0	0	0
1996	0	0	0	0
1997	2,007	502	623	3,132
1998	3,918	980	913	<u>5,811</u>
			TOTAL	<u>\$8,943</u>

Interest is computed through May 1, 2002.

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

An explanation of taxpayers' 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] _____
ADMINISTRATIVE ASSISTANT 1