

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 15523
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On October 13, 1999, 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 1996 and 1997 in the total amount of \$4,322.

On December 14, 1999, 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.

For taxable year 1995, the taxpayers filed an extension of time for filing with the Tax Commission. However, the taxpayers failed to follow-up the extension of time with the filing of their income tax return. The Tax Discovery Bureau (Bureau) found, in the Tax Commission's records, that the taxpayers had not filed their 1995 Idaho income tax return and began to inquire into the taxpayers' filing requirement. The Bureau's research found that the taxpayers received wages from Idaho sources in 1995 through 1997. The Bureau also found the taxpayers received nonemployee compensation. In addition to not filing their 1995 Idaho income tax return, the taxpayers had not filed their 1996 or 1997 Idaho returns.

The Bureau sent the taxpayers a letter asking about their Idaho income tax returns. It is unclear from the record whether the taxpayers ever responded; nevertheless, the Bureau prepared returns for the taxpayers and sent them a Notice of Deficiency Determination. The taxpayers

protested the Bureau's determination and submitted a self-prepared 1995 Idaho income tax return.

The Bureau continued corresponding with the taxpayers allowing them additional time to complete and submit their 1996 and 1997 returns. During this time, the Bureau sent the taxpayers a letter canceling the Notice of Deficiency Determination relating to the taxable year 1995. However, after a sufficient amount of time had lapsed and no apparent progress was made in securing the taxpayers' 1996 and 1997 returns, the Bureau 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 responded in a letter stating that they would like to submit returns for both 1996 and 1997. They stated the 1996 return should be finished by the end of July 2001 and the 1997 return by the end of October 2001. The Tax Commission agreed to allow the taxpayers until the end of October to present their returns.

The Tax Commission received the taxpayers' 1996 return on August 3, 2001, and the taxpayers' 1997 return on November 16, 2001. The Tax Commission reviewed these returns and found them to be a better representation of the taxpayers' taxable income. 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' returns resulted in refunds. However, Idaho Code sections 63-3035(e) and 63-3072(c) state that for a refund to be issued a claim must be made by filing a return, required by the income tax act, within three years of the due date of the return, without regard to extensions. The taxpayers' 1997 return had a due date of April 15, 1998. The statute of

limitations for receiving a 1997 refund expired on April 15, 2001. Therefore, the Tax Commission is prohibited from issuing a refund for either tax year.

WHEREFORE, the Notice of Deficiency Determination dated October 13, 1999, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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]

\_\_\_\_\_  
ADMINISTRATIVE ASSISTANT 1