

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15660
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On April 16, 2001, 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 through 1998 in the total amount of \$70,637.

On June 15, 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 provided no additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

While reviewing the Tax Commission's records, the Tax Discovery Bureau (Bureau) found that the taxpayers stopped filing Idaho individual income tax returns after tax year 1995. The Bureau sent the taxpayers a letter asking about their requirement to file Idaho income tax returns. The taxpayers did not respond.

The Bureau gathered further information on the taxpayers and found the taxpayers received income in excess of Idaho's filing requirements in 1998. The Bureau also found that the taxpayers were the sole shareholders of an S corporation, [Redacted], doing business in [Redacted], Idaho. [Redacted] reported its monthly sales to Idaho for each of the years 1996 through 1998. Since S corporations are flow-through entities, any income the S corporation earned would be reported on the taxpayers' individual income tax returns.

Therefore, from the information available, the Bureau determined the taxpayers had a filing requirement. The Bureau prepared returns for the taxpayers and sent them a Notice of Deficiency Determination. The taxpayers protested the Bureau's determination stating that they could not possibly owe the amount of tax determined by the Bureau. The taxpayers stated they would be working with their accountant to get this matter resolved.

The Bureau acknowledged the taxpayers' protest and agreed to allow the taxpayers additional time to submit income tax returns. However, approximately 30 days later the taxpayers wrote saying it was taking longer than anticipated and that they needed another 30 to 45 days to complete their returns. The Bureau allowed the taxpayers an additional 30 days and then sent them a letter asking them for a completion date. The taxpayers did not respond.

The Tax Commission sent the taxpayers a hearing rights letter giving them two options for having the Notice of Deficiency Determination redetermined. The taxpayers did not respond to the Tax Commission's letter so a follow-up letter was sent to the taxpayers. The taxpayers failed to respond to the follow-up letter. The Tax Commission called the taxpayers and left them a message to contact the Tax Commission. The taxpayers failed to return the Tax Commission's call. The Tax Commission has given the taxpayers sufficient notice and time to present whatever material the taxpayers wanted the Tax Commission to consider in making its decision. Therefore, the Tax Commission decided the matter based upon the information currently available.

The returns the Bureau prepared for the taxpayers used information filed by the taxpayers' S corporation. The S corporation filed and reported its monthly sales during the years in question. However, the taxpayers' S corporation did not file income tax returns for tax years 1996 through 1998, so the Bureau attributed the total sales of the S corporation to the taxpayers'

as their gross income. Deductions from gross income are a matter of legislative grace and the taxpayers must be able to show they fall within the terms of the deduction. New Colonial Ice Co. v. Helvering, 292 U.S. 435, 54 S.Ct. 788, (1934). The taxpayers have provided no information to show that there were any allowable deductions from gross income.

The taxpayers stated they did not owe the amount of tax determined by the Bureau. However, the taxpayers did not provide any information or documentation to substantiate their statement. Since the taxpayers have not provided anything to show the returns the Bureau prepared were in error, they 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). Therefore, the Tax Commission upholds the Bureau's computation of the taxpayers' tax.

The Bureau added interest and penalty to the taxpayers' Idaho tax deficiency. The Tax Commission reviewed those additions and found both to be appropriate per Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated April 16, 2001, is hereby 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>
1996	\$20,088	\$5,022	\$8,455	\$33,565
1997	14,877	3,719	4,966	23,562
1998	11,689	2,922	3,001	<u>17,612</u>
			TOTAL DUE	<u>\$74,739</u>

An explanation of the 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]
[REDACTED][REDACTED]

[Redacted]

ADMINISTRATIVE ASSISTANT 1