

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15772
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On October 10, 2001, the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (“taxpayer”), proposing additional income tax, penalty, and interest for tax year ending 12/31/99 in the total amount of \$152,692.

On December 8, 2001, a timely protest and petition for redetermination was filed by the taxpayer. An informal conference was requested by the taxpayer and held on June 4, 2002.

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

The taxpayer is a late filer of income tax returns. This was the subject of the Tax Commission Decisions in docket nos. 13590 and 15496 regarding the returns for years 1994-1997 and 1998, respectively. After the first of the two decisions was issued, the taxpayer filed returns for 1995-1997 showing net losses, and the Tax Commission agreed to adjust the deficiencies accordingly, subject to possible audit.

Here, as in the past, the Tax Commission’s auditor has based the 1999 deficiency on amounts of gross receipts and payroll expenses shown in the taxpayer’s Idaho sales and payroll tax filings for 1999. 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 that were 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 cost 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 1999 return being two years delinquent, the Tax Commission lacks a basis to reduce the deficiency. The penalty for late filing is also affirmed.

WHEREFORE, the Notice of Deficiency Determination dated October 10, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest (computed through 09/06/02)(interest runs at \$24.10 per day):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/99	\$110,235	\$27,559	\$15,108	\$152,902

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]

ADMINISTRATIVE ASSISTANT 1