

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 15820 |
| [REDACTED], |) | |
| |) | DECISION |
| Petitioner. |) | |
| _____ |) | |

On June 5, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1998 and 1999 in the total amount of \$9,182.

On August 1, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided no additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that the taxpayer received wage income in 1998 and 1999 while residing in Idaho. The Bureau researched the Tax Commission's records and found the taxpayer had not filed income tax returns for those years. The Bureau sent the taxpayer a letter asking about his filing requirement with the state of Idaho, but the taxpayer did not respond. The Bureau gathered additional information on the taxpayer and determined he did have a requirement to file Idaho income tax returns. The Bureau prepared 1998 and 1999 returns for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination stating that for 1998 he had never made the amount of income the Bureau reported in all his working life. The taxpayer asked for a breakdown of the income and where it came from. The Bureau provided the taxpayer with the information he requested. The taxpayer responded back that the item listed as a sale of stocks

and bonds was an inheritance and that he only received a third of the proceeds from the sale. The taxpayer also stated that a C.P.A. advised him the inheritance was not taxable. The taxpayer stated the wages he received had taxes taken out every payday. He stated that if anything, he would be due a refund. The taxpayer asked that his case be forwarded to the Tax Commission's legal department for further consideration.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. Therefore, the Tax Commission decided this matter based upon the information currently available.

The Bureau prepared returns for the taxpayer using information it obtained from the [Redacted] Idaho Department of Labor. The 1998 return included amounts for wages, stock sales, unemployment compensation, and interest income. The 1999 return included amounts for wages, unemployment compensation, and interest income.

The taxpayer stated his employer withheld taxes from his pay every payday. The Bureau did not include any withholdings for either year in its computation of the taxpayer's Idaho tax. The Tax Commission searched its records for evidence of withholdings made on behalf of the taxpayer but found none. The taxpayer has also failed to provide documentation, such as W-2 wage statements, that would verify the amount of his withholdings.

The 1998 return the Bureau prepared included the gross sales amount of the sale of stocks and/or bonds. The taxpayer stated that that income was received as part of an inheritance. If this is true, the taxpayer would have a stepped-up basis in the stocks or bonds of the fair market value at the time of inheritance. The taxpayer also stated his share of the inheritance was only a third of the sale.

The taxpayer did file a federal return for 1998 [Redacted], it is clear the taxpayer did not pay any federal tax on the sale of the stocks or bonds. It is less clear whether the taxpayer actually reported the income on his federal return. Nevertheless, the Tax Commission found, based upon the available information, that there is sufficient justification for not including the sale of the stocks and bonds in the taxpayer's taxable income. Therefore, the Tax Commission reduced the taxable income on the 1998 return the Bureau prepared by the amount of the stocks and bonds sale.

Otherwise, the taxpayer has not provided anything to show the returns prepared by the Bureau were incorrect. He has not met his 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 determination, after taking into consideration the adjustment for the stocks and bonds sale.

The Bureau added interest and penalty to the taxpayer's Idaho tax in accordance with Idaho Code sections 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them to be appropriate.

WHEREFORE, the Notice of Deficiency Determination dated June 5, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|----------------|
| 1998 | \$1,023 | \$256 | \$251 | \$1,530 |
| 1999 | 500 | 125 | 87 | <u>712</u> |
| | | | TOTAL DUE | <u>\$2,242</u> |

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 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]]

ADMINISTRATIVE ASSISTANT 1