

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16005
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On August 9, 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 1997 through 1999 in the total amount of \$10,338.

On October 11, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond and has not provided any 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 taxpayer stopped filing Idaho income tax returns after the tax year 1996. The taxpayer filed an extension of time form for 1997 but failed to follow up and file an income tax return. The Bureau sent the taxpayer a letter asking about his requirement to file Idaho income tax returns but the taxpayer did not respond.

Based upon sales tax returns the taxpayer filed from 1994 through 1999, the Bureau determined that the taxpayer was required to file Idaho income tax returns for 1997 through 1999. The Bureau prepared returns for the taxpayer and sent the taxpayer a Notice of Deficiency Determination. The taxpayer protested the Bureau's determination stating that he was unable to correctly determine his income. His ex-wife and ex-stepdaughter took or destroyed all his records for 1996 and part of 1997. He stated it was impossible to correctly figure what inventory had been sold, redeemed, received, or stolen.

The Bureau thought, from the language in the taxpayer's protest letter, that the taxpayer was going to provide returns for the years for which he had the records, 1998 and 1999. The Bureau sent the taxpayer forms and instructions and waited for completed returns to be filed; however, no returns were received.

The Tax Commission sent the taxpayer a hearing rights letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond to the Tax Commission's letter so a follow-up letter was sent to the taxpayer. The taxpayer also failed to respond to the follow-up letter. Therefore, the Tax Commission decided the matter based upon the information currently available.

The taxpayer is a self-employed individual whose business is a pawn store in Boise, Idaho. The taxpayer filed monthly sales tax reports with the Tax Commission. The Bureau prepared returns for the taxpayer using the information the taxpayer filed on his sales tax returns. The sales the taxpayer reported were identified as gross income to the taxpayer. Deductions from gross income are a matter of legislative grace and 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 taxpayer has provided no information to show that there were any allowable deductions from gross income.

The taxpayer stated he had records for 1998 and 1999. However, nothing was provided for documentation or as taxpayer prepared returns. Since the taxpayer has not provided anything to show that the returns the Bureau prepared were in error, 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 computation of the taxpayer's tax.

The Bureau added interest and penalty to the taxpayer's 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 August 9, 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:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$ 417	\$ 104	\$ 140	\$ 661
1998	4,027	1,007	1,045	6,079
1999	2,835	709	529	<u>4,073</u>
			TOTAL DUE	<u>\$10,813</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]
[Redacted] [REDACTED]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1