

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16311
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On November 13, 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 1996 and 1997 in the total amount of \$4,390.

On January 16, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to submit additional documentation and returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer filed an extension of time for filing for the taxable years 1996 and 1997; however, he failed to follow-up the extensions with the filing of Idaho income tax returns. The Tax Discovery Bureau (Bureau) contacted the taxpayer and asked about his filing requirement for 1996 and 1997. The taxpayer responded that he thought he had filed his 1996 and 1997 returns. The Bureau assured the taxpayer that the Tax Commission did not have a record of his returns. The taxpayer stated he would have the returns prepared in 30 days.

The taxpayer did not submit the returns within the 30 days as he stated. The Bureau sent the taxpayer letters asking for the returns, but the taxpayer failed to provide the returns. [Redacted] The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer appealed.

The taxpayer stated that he had withholdings the Bureau did not take into account and that the number of dependents allowed by the Bureau was incorrect. The taxpayer later sent in check stubs to document the amount of withholdings for 1996 and 1997, but he still did not provide the Bureau with income tax returns. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded that he would like to submit additional information and would have his returns completed on or before August 24, 2002.

The Tax Commission allowed the taxpayer the additional time he requested, but he failed to provide the returns by the date stated. However, he did contact the Bureau, and he came into the Tax Commission's office to get assistance in the preparation of his returns. The taxpayer did not leave a copy of the returns with the Tax Commission but rather took them home to review and sign before giving them to the Tax Commission. A couple of weeks later, the taxpayer provided the returns to the Tax Commission for consideration in its redetermination.

The Tax Commission reviewed the returns and found them to be a better representation of the taxpayer's taxable income than the returns the Bureau prepared. Therefore, the Tax Commission accepted the taxpayer's returns, subject to the normal review processes of the Tax Commission, in lieu of the returns prepared by the Bureau.

The taxpayer's 1996 return resulted in a refund to the taxpayer. However, Idaho Code section 63-3072 provides that a claim for credit or refund of withholdings from wages must be made within three years of the due date of the return for the taxable year for which the withholdings were made. The due date for the taxpayer's 1996 return was April 15, 1997. The

taxpayer made the claim for refund upon providing his Idaho income tax return on September 30, 2002. The taxpayer's claim is well beyond the three-year statute. Therefore, the Tax Commission must deny the credit or refund.

The taxpayer's 1997 return resulted in tax owed to Idaho. Idaho Code sections 63-3045 and 63-3046 provide that interest and penalty be added to any deficiency in tax if a return is not filed by the due date of the return. The Bureau added interest and penalty to the tax deficiency it computed for the taxpayer, and the Tax Commission finds that it is appropriate to add interest and penalty to the return the taxpayer submitted.

WHEREFORE, the Notice of Deficiency Determination dated November 13, 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>
1996	\$ 0	\$ 0	\$ 0	\$ 0
1997	162	41	58	<u>261</u>
			TOTAL DUE	\$ <u>261</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]