

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16383
[Redacted],)	
)	DECISION
Petitioners.)	
)	
)	

On January 3, 2002, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for 1997 and 1999 in the total amount of \$5,100.

The taxpayers' representative (POA) filed a timely protest. A hearing was neither requested nor held. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

During the years in question, the taxpayers failed to file Idaho individual income tax returns even though Tax Commission records show they satisfied the filing requirements stated in Idaho Code § 63-3030. [Redacted] The taxpayers had not filed their federal returns for either year.

Idaho Code § 63-3045 (1)(a) states:

Notice of redetermination or deficiency -- Interest. (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

TDB issued a deficiency notice to the [Redacted] based on the information contained in W-2s [Redacted]. The POA responded with a telephone call to TDB that was followed up with a letter of protest and an executed Power of Attorney Form.

In the telephone call and protest letter, the POA explained that [Redacted] had died in March 2000. He said after [Redacted] passed away, a 1997 Idaho income tax return and cashier check to pay the amount shown in that return were found. However, he has not received that return from [Redacted]. He said [Redacted] and the taxpayers' daughter were working with him to complete federal and state returns, so he hoped to have both Idaho returns ready to submit within thirty days.

Although two additional letters were sent to the POA, TDB did not receive the returns. The taxpayers' file was transferred to the Legal/Tax Policy Division and the POA was notified of the taxpayers' appeal rights.

During telephone calls on four different days in June and July 2002, the POA advised that he had been unsuccessful securing the required income information for [Redacted] and/or her daughter. He said he had contacted them several times and reminded them of the urgency, but no information had been received.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayers to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

TDB prepared the deficiency notice and tax returns based on information received from the IRS. The Tax Commission confirmed the accuracy of the federal information by examining Tax Commission records. Credit was allowed for withholding that could be identified. Neither the POA

nor [Redacted] has presented evidence to dispute the claim of Idaho income taxes due. Absent evidence to the contrary, the Tax Commission upholds TDB's determination.

WHEREFORE, the Notice of Deficiency Determination dated January 3, 2002, is 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>
1997	\$2,073	\$518	\$686	\$3,277
1999	1,347	337	243	<u>1,927</u>
			TOTAL DUE	<u>\$5,204</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1