

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16412
[Redacted])	
)	DECISION
Petitioners.)	
_____)	

On January 3, 2002, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for taxable years 1994, 1995, 1997, 1998, and 1999 in the total amount of \$35,974.

The taxpayers filed a timely protest. They did not request a hearing but did submit additional information. Therefore, 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]

Idaho Code § 63-3045 (1)(a) states:

63-3045. 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.

Because the taxpayers did not file state income tax returns, the Bureau prepared provisional returns and issued a deficiency notice. [Redacted] The taxpayers responded to the notice by sending a letter of protest. They said they became residents of Idaho in September 1994 when they moved into a mobile home on an Idaho property they had purchased some time earlier. They included a copy of loan papers to establish that fact. The taxpayers said they continued living in Idaho until they moved to Indiana during October 1998. They furnished a copy of their daughter's school reports to confirm the timeframe.

The Bureau sent a letter acknowledging the protest and challenging the taxpayers' residency for 1999. The Bureau advised the taxpayers that [Redacted] County, Idaho records indicated the taxpayers had claimed a 50% exemption of their property taxes with [Redacted] County as owners who occupied their home in [Redacted], Idaho during 1999. The Bureau advised the taxpayers they could not have it both ways – residents for property tax exemption purposes and non-residents for income tax purposes.

When no response was received, the taxpayers' file was transferred to the Legal/Tax Policy Division of the Tax Commission for administrative review. In response to a letter outlining the taxpayers' appeal rights, the taxpayers sent one additional letter. They asked for clarification of the appeals process.

The Tax Appeals Specialist telephoned the taxpayers at their residence in Indiana on June 10, 2002. In the ensuing conversation, [Redacted] explained her frustration with trying to secure the information required to file the missing Idaho income tax returns. She stressed that the records show they were not residents of Idaho during 1999. The Specialist advised [Redacted] of the

importance of contacting [Redacted] County to correct the records regarding the homeowner's exemption they received for 1999. The taxpayers' file was put in abeyance to allow the taxpayers an opportunity to complete and file their 1994, 1995, 1997, and 1998 Idaho income tax returns. Neither the returns nor any additional information has been received from the taxpayers.

The taxpayers do not deny they were residents of Idaho who met the filing requirements for filing Idaho income tax returns for all the years in question except 1999. The Bureau does not deny the taxpayers were not residents during 1999 as indicated by a copy of a letter to the taxpayers from the [Redacted] County Assessor. That letter advised the taxpayers [Redacted] County had been informed by the Tax Commission that the taxpayers were not residents of Idaho during that year. The taxpayers were asked to reimburse [Redacted] County the \$611.48 homeowner's exemption they received for 1999. The Tax Commission recognizes the taxpayers do not have an Idaho income tax filing responsibility for 1999.

The Bureau used the information contained in the W-2s and 1099s submitted [Redacted] to determine the taxpayers' income and Idaho income tax for each of the years at issue. The taxpayers have provided no additional information that would affect the income totals. However, the taxpayers' daughter's report cards establish her existence. There is no reason to think the taxpayers do not have the right to the additional exemption for her as a dependent. The Bureau's determination of the taxpayers' Idaho income tax will be adjusted to reflect the additional exemption and grocery credit.

It is well settled in Idaho that provisional returns prepared by the Idaho State Tax Commission are presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Com'n, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The

burden is on the taxpayer to show that the tax deficiency is erroneous. Therefore, based on the information available, the Tax Commission finds the provisional returns, as adjusted, to be fair representations of the taxpayers' taxable income for the taxable years in question.

WHEREFORE, the Notice of Deficiency Determination dated January 3, 2002, is hereby MODIFIED, and, as so modified, 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>
1994	\$ 585	\$ 146	\$ 354	\$ 1,085
1995	4,409	1,102	2,275	7,786
1997	6,102	1,526	2,108	9,736
1998	5,349	1,337	1,483	8,169
			TOTAL	<u>\$26,776</u>

Interest is computed through November 1, 2002.

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

An explanation of 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]