

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of

DOCKET NO. 16489

DECISION

[Redacted] Petitioner.

On February 5, 2002, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for taxable year 1997 in the amount of \$703.

The taxpayer filed a timely appeal. She did not request a hearing and did not submit additional information. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Because the taxpayer was identified as a resident who had not filed a 1997 Idaho individual income tax return, TDB sent the taxpayer a questionnaire to complete. The taxpayer did not return that form to TDB.

[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.

A Notice of Deficiency Determination was mailed to the taxpayer. The determination of income was based on Idaho source income as shown in a W-2 issued in the taxpayer's name for 1997. Idaho withholding was identified and allowed to offset \$1,045 of the resulting tax due. In response to the deficiency notice, the taxpayer sent a letter appealing the determination. She said she had not filed her 1997 Idaho return for medical reasons. She said when she does complete and file her return she will be entitled to a refund because she is going to itemize her \$12,000 of medical expenses. Her only suggestion of when her return might be expected was: "As soon as I get all of the documentation, I will file the tax return."

TDB sent the taxpayer a letter wherein her protest was acknowledged and she was asked to prepare and file the missing return. Although the taxpayer telephoned TDB a couple of times, she did not send her 1997 Idaho income tax return. On May 22, 2002, TDB sent the taxpayer a follow-up letter wherein she was asked to submit her 1997 Idaho return within fifteen days from the date of the letter. The taxpayer again called to ask for additional time. The ensuing delay did not result in TDB receiving the return.

The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not acknowledge receiving a letter from the Tax Appeals Specialist that advised her of her appeal rights.

Idaho Code § 63-3030 explains the income tax act:

63-3030. Persons required to make returns of income. (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

- (1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code).
- (2) Any nonresident individual having for the current taxable year a

gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

The taxpayer met the requirements for filing a 1997 Idaho income tax return. She has not submitted her return even though she is aware the Tax Commission did not receive the return. Nothing has been submitted that would cast doubt on the Bureau's determination, which was calculated after considering the taxpayer's income information reported to [Redacted] the Idaho Department of Labor and the records retained by the Tax Commission.

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). Having presented no information in support of her argument, the taxpayer has failed to meet her burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated February 5, 2002, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest for 1997.

TAX
\$451

PENALTY
\$113

INTEREST
\$161

TOTAL
\$725

Interest is computed through December 31, 2002.

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

An explanation of taxpayer's 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]