

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [Redacted]) DOCKET NO. 16572
 Petitioners.) DECISION
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On March 7, 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 tax years 1996 and 1997.

The taxpayers filed a timely protest. They did not request a hearing but did submit additional information. The Tax Commission, having reviewed the file, hereby issues its decision based on the file.

TDB identified the taxpayers as Idaho residents who did not file 1996 and 1997 Idaho income tax returns even though they received income in excess of the filing requirement. TDB sent the taxpayers a letter of inquiry regarding the two missing returns. The taxpayers did not respond and TDB prepared provisional Idaho income tax returns for 1996 and 1997 [Redacted] and issued the taxpayers a Notice of Deficiency Determination. [Redacted] appealed by telephone followed by a faxed written appeal.

During the telephone call, [Redacted] informed TDB that she is no longer married to [Redacted] who is presently incarcerated. She gave TDB a new mailing address for herself. In the letter, she explained that [Redacted] prepared the taxpayers' tax returns during the period of time that included 1996 and 1997. Since that time, she and [Redacted] have divorced. She said she needed to get a copy of a W-2 from [Redacted]. Included with the letter was a copy of a bank check

issued to [Redacted] on March 21, 1996, in the amount of \$18,830.32 and a copy of a request for distribution of a profit sharing retirement plan. Both taxpayers signed the distribution request. [Redacted] signed the protest letter as [Redacted].

TDB responded to the taxpayers' protest by sending the taxpayers an acknowledgement of their appeal and a revised Notice of Deficiency Determination. TDB explained that it was able to secure a W-2 from [Redacted]'s 1997 employer, [Redacted], resulting in a larger off-set of the tax for that year. However, tax year 1996 remained unchanged because no additional withholding was identified for that year. No state taxes had been withheld from the retirement distribution.

The taxpayers were given the opportunity to continue their appeal or withdraw their protest and accept the adjusted figures. When they did not answer that letter, their file was transferred to the Legal/Tax Policy Division for administrative review.

The taxpayers do not deny they had a requirement to file Idaho individual income tax returns for both 1996 and 1997. They have not filed those returns. The taxpayers have not disputed the amounts shown in the modified deficiency determination. Rather, they chose to ignore TDB's request to accept or reject the adjusted determination.

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 their argument, the taxpayers have failed to meet their burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The Tax Commission upholds TDB's amended determination.

WHEREFORE, the Notice of Deficiency Determination dated March 7, 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 for 1996 and 1997:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1966	\$1,547	\$387	\$678	\$2,612
1997	185	46	65	<u>296</u>
			TOTAL DUE	<u>\$2,908</u>

Interest is calculated through December 1, 2002.

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]
