

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16689
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On May 8, 2002, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for taxable years 1996 through 1999 in the total amount of \$13,812.

An attorney filed a timely appeal on behalf of the taxpayer. No hearing was requested and no additional information was submitted. 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 taxpayer was an Idaho resident who had failed to file Idaho individual income tax returns. Tax Commission records show he attempted to file an extension of the time to file for 1996 but was denied the request because he did not submit the required estimated tax payment.

The Bureau requested and received a transcript of the taxpayer's federal income records from the Internal Revenue Service. The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

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 taxpayer did not file Idaho tax returns and did not answer correspondence, the Bureau prepared provisional returns and issued a deficiency notice based upon the income amounts shown in federal 1099 and W-2 forms issued in the taxpayer's name.

In response to the notice, an attorney in the state of Washington sent a letter objecting to the determination of any amount owing. The letter advised that the taxpayer had filed a Chapter 7 bankruptcy in Washington and was granted a discharge of all debts by the court.

The Bureau telephoned the attorney to advise the attorney that the Tax Commission would be unable to respond directly to her without an executed Power of Attorney form. The Bureau sent a blank Power of Attorney form to the taxpayer along with a letter asking the taxpayer to complete the form and secure his bankruptcy attorney's signature before returning it to the Tax Commission. In addition, the Bureau advised the taxpayer that, according to 11 USC § 523, a tax debt as a result of unfiled income tax returns is excluded from discharge in Chapter 7 bankruptcy cases. The Bureau asked the taxpayer to submit his actual Idaho income tax returns for the years 1996 through 1999.

When the Bureau did not receive a response to its letter, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. The Tax Appeals Specialist sent the taxpayer a letter advising him of his appeal rights, but it did not result in the taxpayer submitting his returns.

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 Idaho income tax returns for 1996 through 1999. Yet, he has not filed Idaho returns for any of the years. Nothing has been submitted that would cast doubt on the Bureau's determination, which was calculated after considering the taxpayer's income information that was reported [Redacted] and the records retained by the Tax Commission. In addition, the amount of tax, penalty, and interest shown in the Notice of Deficiency Determination was not discharged in the taxpayer's bankruptcy and can be pursued.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of his argument, the taxpayer has failed to meet his 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 May 8, 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.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
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1996	\$1,842	\$461	\$802	\$ 3,105
1997	2,591	648	903	4,142
1998	2,072	518	562	3,152
1999	2,499	625	496	<u>3,620</u>
			TOTAL DUE	<u>\$14,019</u>

Interest is computed through November 15, 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]
