

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15803
[REDACTED])	
Petitioner.)	DECISION
)	
)	

On May 6, 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 1998 and 1999 in the total amount of \$5,326.

The taxpayer filed a timely appeal. He 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 Tax Commission records showed the taxpayer met the state income tax filing requirements and had not filed Idaho returns for 1998 and 1999, the Bureau contacted the taxpayer for an explanation of why his return had not been filed. The taxpayer promised to have the returns prepared.

[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.

Determining the taxpayer had a filing requirement, the Bureau prepared returns on his behalf and sent him a Notice of Deficiency Determination. In response to the deficiency notice, [Redacted] faxed (and later mailed) a letter appealing the determination, copies of W-2s showing the taxpayer as the employee, and an executed Power of Attorney.

The representative questioned the Idaho adjusted gross income that was shown in the notice for each year because the figures conflicted with the information in the W-2s. He said the taxpayer was a partner in an Idaho business that suffered losses both years. He explained the taxpayer had been injured in an industrial accident that nearly cost him his life and delayed completion of business accounts and tax returns. He offered that he was working on returns that would include schedule C adjustments and other schedules.

The Bureau amended its figures to allow credit for the withholding shown in the W-2s and sent a notice that canceled the determination of tax for 1998 and amended the 1999 figures. In addition, the Bureau advised the taxpayer's representative that the file would be put in abeyance to allow him time to complete the business accounts and prepare the taxpayer's 1999 Idaho return. When the stay concluded and no returns had been filed, the Bureau telephoned the representative once again.

In that conversation on August 9, 2002, the representative promised to have the returns completed "next week." That did not happen. On October 24, 2002, the representative called the Bureau and promised the returns by "next week," and on December 23, 2002, he promised to have them done "this week."

The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. Neither the taxpayer nor his representative responded to a letter from the Tax Appeals

Specialist that advised the taxpayer of his 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);

Tax Commission records show the taxpayer, an Idaho resident, was a partner in an Idaho business and employed by a construction company during both years at issue. The withholding shown in the taxpayer's 1998 W-2 offset the total tax determined by the Bureau to be owed for 1998. Therefore, the Bureau canceled the deficiency for 1998, and it will not be a part of this decision.

The taxpayer does not deny he had a requirement to file a 1999 Idaho individual income tax return. He has not filed that return and has submitted nothing that would cast doubt on the Bureau's determination that was based on wages the taxpayer received during the year (confirmed by the W-2) and the records of the business with which he was affiliated.

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 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 6, 2002, is hereby

MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest for 1999.

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$1,177	\$294	\$268	\$1,739

Interest is computed through June 1, 2003.

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 _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2003, 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]

[Redacted]
