

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

|                                 |   |                  |
|---------------------------------|---|------------------|
| In the Matter of the Protest of | ) |                  |
|                                 | ) | DOCKET NO. 15817 |
| [Redacted]                      | ) |                  |
| Petitioners.                    | ) | DECISION         |
|                                 | ) |                  |
|                                 | ) |                  |

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On June 5, 2001, 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 taxable years 1993 through 1995 in the total amount of \$33,284.

The representative of the [Redacted] (POA) filed a timely protest. A hearing was not requested. 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:

**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.

TDB issued a deficiency notice to the taxpayers based on the information contained in bank records and the public records of [Redacted] County (including documents resulting from a real estate purchase). The POA responded with a telephone call to TDB that was followed up by a letter of protest and an executed Power of Attorney Form.

In the telephone call and protest letter, the POA explained that [Redacted] passed away on July 20, 1995 and [Redacted] passed away on October 22, 1999. The POA said the heirs had hired his firm to prepare returns for all years and asked for a continuance to allow him the time required to complete the task.

Pursuant to that request, the taxpayer's file was placed in abeyance pending receipt of the completed returns. However, the returns did not arrive and the file was transferred to the Legal/Tax Policy Division and the POA was notified of the estates' appeal rights.

During numerous telephone calls over the course of several months, the POA indicated he was making progress and would have the returns ready for filing within a short while. He indicated he was having trouble getting all the records needed to complete the [Redacted] state returns, but the family was cooperating and he was making progress.

On March 31, 2003, the POA advised that the returns were finished, but the family wanted to have them reviewed by the accountant in charge of the estate before the returns were submitted for filing. He indicated the sale of the estates' real estate holdings would be sufficient to pay tax liabilities. To date no Idaho income tax returns have been filed on behalf of the taxpayers.

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). The

burden is on the taxpayers to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

TDB prepared the deficiency notice and tax returns based on available information. The Tax Commission has reviewed that information and found the computations of Idaho individual income tax to be accurate based on that information. No evidence has been presented to dispute the claim of Idaho income taxes due. Absence evidence to the contrary, the Tax Commission upholds TDB's determination.

WHEREFORE, the Notice of Deficiency Determination dated June 5, 2001, is APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the [Redacted] pay the following tax, penalty, and interest:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u>    |
|-------------|------------|----------------|-----------------|-----------------|
| 1993        | \$3,477    | \$ 869         | \$2,492         | \$ 6,838        |
| 1994        | 8,898      | 2,225          | 5,705           | 16,828          |
| 1995        | 6,674      | 1,669          | 3,697           | <u>12,040</u>   |
|             |            |                | <b>TOTAL</b>    | <b>\$35,706</b> |

Interest is computed through July 15, 2003.

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 \_\_\_\_\_, 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] | [Redacted] |
| [Redacted] |            |
| _____      |            |
| [Redacted] |            |