

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16032
[REDACTED])	
Petitioner.)	DECISION
)	
)	
)	

On August 21, 2001, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner), proposing income tax, penalty and interest for the years 1995 through 1999 in the total amount of \$7,804.

A timely protest and petition for redetermination was filed by the petitioner's representative (representative) on October 23, 2001. An informal hearing has not been requested by the representative. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

This is a nonfiler case. Idaho corporation income tax returns have not been filed by the petitioner for the years 1995 through 1999. The petitioner is a [Redacted] corporation that operated a retail store in [Redacted], Idaho under the name [Redacted]. The petitioner applied for and received an Idaho sales tax permit and an Idaho income tax withholding permit on April 1, 1995, and has since filed Idaho sales tax and income tax withholding returns. [Redacted] information does not show that the petitioner has filed federal income tax returns for the years 1995 through 1999.

On October 26, 2000, TDB sent the petitioner a letter notifying it that the Commission's records indicated that Idaho income tax returns had not been filed for the years 1995 through 1999. Another request for the petitioner's returns was sent on December 11, 2000. The petitioner did not respond to either letter.

On January 26, 2001 another letter was sent to the petitioner requesting information necessary to determine if the petitioner had an Idaho income tax filing requirement. On June 12, 2001, the TDB received a copy of this letter with a note written on it from the representative in which she stated:

My Idaho store [Redacted] had a loss each year so far & a theft caused loss of some of my records. I am trying to compile the accurate figures. But there definitely was income.

On July 25, 2001, the TDB sent the representative a letter that requested the petitioners Idaho corporate income tax returns be filed for tax years 1995 through 1999 or a NOD would be issued based on available information. The letter also informed the representative that, pursuant to section 63-3030(3) of the Idaho Code, every corporation which is transacting business in the state, authorized to transact business in this state, or having income attributable to this state, unless exempt from the tax imposed in this chapter, must file Idaho Corporate income tax returns (Form 41).

Due to a lack of response from the petitioner, a NOD was issued on August 21, 2001, for income taxes for the tax years 1995 through 1999. The NOD was based on the total Idaho sales reported on the petitioner's Idaho sales tax returns less deductions for its Idaho payroll.

The petitioner's protest letter dated October 23, 2001, stated that all forms would be completed by December 1, 2001.

On October 25, 2001, the TDB gave the representative until November 30, 2001 to provide the returns.

In a letter dated November 30, 2001, the representative asked for additional time, until April 15, to file the returns.

TDB sent the representative a letter stating that the Commission would be able to adjust the NOD dated August 21, 2001, to reflect the petitioner's losses for the years 1995 through 1999 upon

receipt of complete copies of the federal income tax returns for these periods. TDB also stated that the representative's acceptance of a modified NOD for these years would satisfy the petitioner's requirement to file Idaho income tax returns for the years in question. A notice was given to the representative that the petitioner's file would be forwarded to the Commission's Legal/Tax Policy Division if the required Idaho returns or the federal income tax returns were not submitted by December 31, 2001. The returns were not filed; so the file was transferred to Legal/Tax Policy.

On February 15, 2002, the Tax Policy Specialist (policy specialist) sent the representative a hearing rights letter to inform her of the alternatives for redetermining a protested NOD. A follow-up letter to the hearing rights letter was sent to the representative on September 12, 2002. The representative did not respond.

The petitioner has not provided the Commission with a contrary result to the determination of its income for the tax years 1995 through 1999 based on the total Idaho sales reported on the petitioner's Idaho sales tax returns less deductions for its Idaho payroll[Redacted] Therefore, the Commission must uphold the deficiency.

WHEREFORE, the Notice of Deficiency Determination dated August 21, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$737	\$184	\$425	<u>\$1,346</u>
1996	1,233	308	607	2,148
1997	1,386	347	562	2,295
1998	654	164	215	1,033
1999	1,101	275	281	<u>1,657</u>
			TOTAL DUE	<u>\$8,479</u>

Interest is computed through December 18, 2003.

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

An explanation of the petitioner'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 on this ___ day of _____, 2003, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.
