

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16211
[Redacted])	
Petitioner.)	DECISION
)	
)	

On November 9, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1992 through 1999 in the total amount of \$252,630.

On December 28, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather stated he would provide income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that showed the taxpayer probably had a filing requirement with the state of Idaho. The Bureau searched the Tax Commission's records and found that the taxpayer had not filed income tax returns for the taxable years 1992 through 1999. The Bureau sent the taxpayer letters to get the taxpayer to file his Idaho income tax returns. The taxpayer responded that he could not file his returns because he could not get certain business information necessary to file the returns.

The Bureau provided the taxpayer with all the information available to the Bureau to assist the taxpayer in the preparation of his returns. Nevertheless, the taxpayer never provided the returns. Therefore, the Bureau reviewed the available information and prepared returns for the taxpayer. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested.

The taxpayer stated he disputes the proposed tax liability because he was not an owner of [Redacted] a business included on the returns prepared by the Bureau. He stated that in 1997 his business located on [Redacted] The taxpayer stated he spent approximately \$100,000 over ten years for rent, mortgage payments, interest, property taxes, insurance, utilities, and other business expenses that the Bureau did not include. The taxpayer stated he had other expenses incurred in the repossession of property that were also not included. The taxpayer stated he had retained an accountant to prepare his returns. However, the Bureau never received any returns.

The Bureau referred the matter for administrative review. The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded requesting forms and instructions to account for his net operating losses. The Tax Commission provided the taxpayer with the necessary forms and instructions. The Tax Commission also answered some questions the taxpayer asked. The taxpayer told the Tax Commission he should have returns to the Tax Commission in about three weeks.

Several months passed and the Tax Commission received nothing from the taxpayer. The Tax Commission sent the taxpayer another letter requesting his income tax returns. The taxpayer contacted the Tax Commission and told the Tax Commission he was having trouble getting information from a partner he had in some real estate dealings. He stated he hired an attorney to try and get the information. He said when he obtained the information he would have someone prepare his returns.

Again several months passed and the taxpayer provided nothing. Seeing that the taxpayer had more than sufficient time since first contacted by the Bureau, the Tax Commission decided

to render its decision. Therefore, the Tax Commission decided the matter based upon the information available.

Tax Commission records showed the taxpayer was involved with or in five separate businesses. For each of these businesses, the taxpayer, at some time during 1992 through 1998, reported sales to Idaho for sales tax purposes. These businesses also filed withholding returns for their employees. The Bureau used this information to determine whether the taxpayer met the filing requirements of Idaho Code section 63-3030. This information was also used to determine the taxpayer's income. In addition to the sales and withholding information, the taxpayer had income that was reported on forms 1099.

The Tax Commission reviewed all the available information and the statements provided by the taxpayer. The Tax Commission found that some of the information was misapplied and that consideration should be given to the statements made by the taxpayer. Therefore, the Tax Commission adjusted the returns prepared by the Bureau to take this information into account.

The taxpayer, on the other hand, has provided no additional documentation to show the returns the Bureau prepared should be adjusted further. He has not met his burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984). Therefore, the Tax Commission upholds the returns as adjusted.

WHEREFORE, the Notice of Deficiency Determination dated November 9, 2001, is hereby MODIFIED, in accordance with the provisions of this decision 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:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1992	\$ 5,380	\$1,345	\$ 4,372	\$11,097
1993	16,635	4,159	11,762	32,556
1994	7,040	1,760	4,445	13,245
1995	6,815	1,704	3,708	12,227
1996	2,229	557	1,027	3,813
1997	1,403	351	524	2,278
1998	1,169	292	348	1,809
1999	1,161	290	260	<u>1,711</u>
			TOTAL DUE	<u>\$78,736</u>

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]
