

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

In the Matter of the Protest of	)	DOCKET NO. 16894
	)	
[REDACTED],,	)	DECISION
	)	
Petitioner.	)	

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On July 18, 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 1991 through 2000 in the total amount of \$107,656.

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 his returns, the Bureau attempted to contact the taxpayer for an explanation. The taxpayer responded by telephone advising that he had made arrangements with an accountant to prepare and file Idaho income tax returns for all years at issue.

[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.

The Bureau issued a Notice of Deficiency Determination. In response to the deficiency notice, the taxpayer's accountant sent the following letter of appeal:

To Whom It May Concern:

My client, [Redacted] would like to protest the Notice of Deficiency Determination for the above-referenced tax years. He does not agree that the proposed assessments accurately reflect his tax liabilities as evidenced by the enclosed returns.

If additional information is needed to process this protest, please advise us.

No returns were enclosed with the letter. The representative acknowledged that fact when the Bureau staff telephoned her to tell her the returns were not in the envelope. She said she discovered the omission after the letter went out. She said she was now working on the returns and would have them submitted to the Tax Commission within four to six weeks. However, after a period of time without any further information from either the taxpayer or his representative, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

In a letter dated January 17, 2003, the taxpayer's accountant provided a schedule of completion dates for each year. She said she would submit each year as it was completed beginning with January 31, 2003 and ending with June 15, 2003. To date, the Tax Commission has received none of the taxpayer's missing Idaho individual income tax 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 1991 through 2000. 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 reported [Redacted] and the records retained by the Tax Commission.

The taxpayer is the sole shareholder of [Redacted], an Idaho Sub-S corporation. Because the taxpayer served in the same capacity with [Redacted] during the years at issue, the Bureau used the business payroll records of [Redacted] to determine the taxpayer's annual income and calculate the tax amounts shown in the Notice of Deficiency Determination. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

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 July 18, 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>
1991	\$4,313	\$1,078	\$3,945	\$ 9,336
1992	3,683	921	2,967	7,571
1993	3,731	933	2,612	7,276
1994	8,214	2,054	5,129	15,397
1995	7,670	1,918	4,121	13,709
1996	7,866	1,967	3,574	13,407
1997	6,466	1,617	2,374	10,457
1998	7,145	1,786	2,073	11,004
1999	7,340	1,835	1,595	10,770
2000	7,515	1,879	1,032	<u>10,426</u>
			TOTAL DUE	<u>\$103,353</u>

Interest is computed through March 15, 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

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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]

\_\_\_\_\_