

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16907
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On July 30, 2002, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for taxable years 1996, 1997, and 2000 in the total amount of \$16,600.

The taxpayers filed a timely protest. They did not request a conference but did submit a return for 2000. No other information was provided. 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 their 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:

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.

Because the taxpayers did not file state income tax returns, the Bureau prepared provisional returns and issued a deficiency notice. The income amounts were determined by examining the records retained by the Tax Commission, the Idaho Department of Labor[Redacted].

In response to the deficiency notice, the taxpayers sent a letter protesting the determination.

The body of the letter said in its entirety:

PURSUANT TO RULE 320, [Redacted] HEREBY PROTEST AND DENY THE DETERMINATION THAT OUR IDAHO STAE [SIC] TAX FILING FOR 1996 AND 1997 WAS NOT MADE AND MAILED. [Redacted] A COPY OF IDAHO RETURN AND ANY CHECKS PAYING FOR 1996 AND 1997 IDAHO INCOME TAX WILL BE FORTHCOMING AS SOON AS POSSIBLE.

The taxpayers' 2000 and 2001 Idaho returns were enclosed with that letter. Both returns resulted in tax due. However, the returns were not accompanied by payment.

The Bureau sent a letter acknowledging the protest and canceling the portion of the Notice of Deficiency Determination addressing the 2000 tax year. Therefore, this decision will address the 1996 and 1997 tax years only. The 2000 tax year will not be a part of this decision.

When the promised copies of returns and canceled checks did not arrive, the Bureau transferred the taxpayers' file to the Legal/Tax Policy Division of the Tax Commission for administrative review. The Tax Appeals Specialist sent the taxpayers a letter advising them of their appeal rights and responsibilities.

The taxpayers are presently principal shareholders of two Sub-S corporations doing business in Idaho. The records suggest they were self-employed during at least a portion of 1997 and received other income in the form of wages during both 1996 and 1997. The taxpayers filed Idaho

income tax returns the year before and after 1996 and 1997. The taxpayers indicated they were sure they had filed their returns and paid all tax due. However, they have furnished no substantiation.

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 their argument, the taxpayers have failed to meet their burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayers have not denied they have a filing requirement. Yet no returns have been filed and no information has been submitted to dissuade the Tax Commission from accepting the Bureau's determination of Idaho income and resulting income tax for 1996 and 1997. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated July 30, 2002, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$3,441	\$860	\$1,550	\$ 5,851
1997	3,374	844	1,226	<u>5,444</u>
			TOTAL	<u>\$11,295</u>

Interest is computed through February 15, 2003.

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

An explanation of 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]