

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16976
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On August 27, 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 1995 through 1997 in the total amount of \$16,859.

The taxpayers filed a timely appeal. They 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 taxpayers met the state income tax filing requirements and had not filed Idaho returns for the years in question, the Bureau contacted the taxpayers for an explanation. The taxpayers' responses indicated they were aware they had not filed Idaho income tax returns for 1995 through 1997. They asked for additional time to research their records and prepare the returns for filing.

[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 stay ended without the taxpayers submitting the missing returns, the Bureau prepared returns on their behalf and sent them a Notice of Deficiency Determination. Because they are no longer married to each other, the taxpayers sent separate letters protesting the determination.

[Redacted] letter was from an accountant and included a fully executed Power of Attorney and [Redacted] letter included an unsigned copy of the taxpayers' 1996 federal return. Both letters explained that all three returns would be prepared recognizing [Redacted] domicile was outside of Idaho while [Redacted] domicile remained Idaho.

The Bureau acknowledged the taxpayers' protests and once again asked them to file their missing Idaho returns. After additional promises and delays, the taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review.

On March 24, 2003, the Tax Commission received Idaho returns [Redacted] from [Redacted] accountant. All three returns were prepared as married filing joint with three children and reflected the taxpayers' status of domiciled in more than one state. [Redacted] Neither of the taxpayers signed the returns; however, the accountant signed all three returns.

After review of the returns prepared by [Redacted] accountant and the file, the Tax Commission finds the returns prepared by the accountant appear to better represent the taxpayers' Idaho income and Idaho tax due as a result of that income than the returns prepared by the Bureau.

Therefore, the Tax Commission accepts the taxpayers' 1995, 1996, and 1997 Idaho tax returns that were prepared by [Redacted] accountant subject to review during the period allowable under Idaho Code § 63-3068(a).

WHEREFORE, the Notice of Deficiency Determination dated August 27, 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>
1995	\$729	\$182	\$395	\$1,306
1996	261	65	120	446
1997	116	29	43	<u>188</u>
			TOTAL	<u>\$1,940</u>

Interest is computed through April 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]

[Redacted]