

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 17059
[Redacted]	)	
Petitioners.	)	DECISION
	)	
	)	

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On October 3, 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 1997 through 2000 in the total amount of \$154,292.

The taxpayers filed a timely protest. 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.

During the years in question, the taxpayers failed to file Idaho individual income tax returns even though they satisfied the filing requirements stated in Idaho Code § 63-3030. [Redacted] The information was provided in accordance with [Redacted] Idaho Code § 63-3077.

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 their 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, and [Redacted]. No withholding was identified; however, information shown [Redacted] reporting income, credits, deductions, etc. received by [Redacted] as shareholder was included in the calculations.

The taxpayers responded with a letter of protest from their representative. However, the Power of Attorney form that was enclosed allowed permission for the representative to act on behalf of the taxpayers in matters concerning federal form 1040 only. The protest letter said expenses and costs of property that had been sold were not taken into consideration when the deficiency was determined. He said he had the taxpayers work papers in his office and was in the process of preparing the missing returns. He offered the returns would be filed “within 60 days.” The date of that letter was December 5, 2002. After a delay to allow time for the returns to be prepared, the file was transferred to the Legal/Tax Policy Division of the Tax Commission for administrative review. The Tax Commission received no response to a letter to the taxpayers wherein their appeal rights were outlined.

The taxpayers met the requirements for filing Idaho income tax returns for 1997 through 2000; yet they have 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 taxpayers’ income information reported [Redacted] and the records retained by the Tax Commission. 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 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).

WHEREFORE, the Notice of Deficiency Determination dated October 3, 2002, is hereby 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>
1997	\$37,596	\$9,399	\$14,437	\$61,432
1998	59,651	14,913	18,056	92,620
1999	1,913	478	440	2,831
2000	108	27	16	<u>151</u>
			TOTAL	<u>\$157,034</u>

Interest is computed through June 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]

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