

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 17104
[Redacted]	)	
Petitioners.	)	DECISION
	)	
	)	

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On November 7, 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 1999 and 2000 in the total amount of \$12,529.

The taxpayers filed a timely protest and an informal conference was held on May 29, 2003. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Idaho Code § 63-3030 states the income requirements for filing Idaho income tax returns.

**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 taxpayers worked and lived in Idaho during the years in question. In fact, [Redacted] was a practicing attorney during the entire period at issue. The Tax Commission staff contacted the taxpayers numerous times attempting to secure the missing income tax returns. When the promised returns were not received within the time frame outlined by the taxpayers, the deficiency notice was issued.

**Idaho Code § 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 taxpayers do not deny they were Idaho residents with filing requirements for the years in dispute. [Redacted] protest was centered on the amount of income and resulting tax due shown in the deficiency notice. He brought some income figures from his law practice with him to the informal conference but did not have the required returns or the complete information to justify making changes to the Bureau's determination of income and Idaho income tax due.

This appeal process is not new to the taxpayers. [Redacted] has appeared before the Tax Commission on behalf of the taxpayers several times. Each appeal (docket number 10944 regarding tax year 1993; docket number 12411 regarding 1994 and 1995; and docket number 15346 regarding 1996 through 1998) resulted from the taxpayers not filing their income tax returns as required by law. Two of these appeals went before the Board of Tax Appeals (appeal numbers 98-B-789 and 01-B-969) before the taxpayers filed their actual returns. In addition, the taxpayers have not submitted Idaho income tax returns for tax years 2001 or 2002.

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 Tax Commission finds the provisional returns to be fair representations of the taxpayers' taxable income for the years 1999 and 2000.

WHEREFORE, the Notice of Deficiency Determinations dated November 7, 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>
1999	\$4,757	\$1,189	\$1,094	\$7,040
2000	4,056	1,014	608	<u>5,678</u>
			TOTAL	<u>\$12,718</u>

Interest is computed through June 15, 2003.

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

An explanation of the taxpayers' 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]

[Redacted]

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