

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 17169
[REDACTED]	)	
	)	DECISION
Petitioner.	)	
_____	)	

On December 9, 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 year 1998 in the amount of \$4,341.

The taxpayer filed a timely appeal. She 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.

The Bureau launched an investigation into the taxpayer's income sources and amounts when Tax Commission records showed the taxpayer, a long time resident of Idaho, had not filed Idaho tax returns for 1998 through 2000. [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.

When the taxpayer did not respond to correspondence, the Bureau issued a Notice of Deficiency Determination for 1998. Tax years 1999 and 2000 were not included in the deficiency because initial calculations showed the taxpayer would not have a deficiency in tax for those two years.

In response to the notice, the taxpayer wrote a letter appealing the determination and asking for additional time to locate missing copies of her W-2s and tax forms. Additionally, she said she did not move to Idaho until September of 1998 and that her Idaho sourced income was less than the amount used to determine her 1998 Idaho tax.

The Bureau sent a letter to the taxpayer that acknowledged the taxpayer's protest and explained a couple of issues that were not made clear by the taxpayer's letter. First, the Bureau told the taxpayer the Tax Commission's records [Redacted] showed no returns filed by her for the years 1998, 1999, and 2000. The Bureau went on to explain that the computations to determine the taxpayer's Idaho tax for the years 1999 and 2000 reveal that, if the taxpayer filed returns for those two years, she would be entitled to a refund of a portion of her withholding for those years. The taxpayer was advised that she needed to file both the federal and state returns prior to the expiration of the three-year statute limiting the time to claim a refund or her refund could not be issued.

Secondly, the taxpayer was advised that the income for 1998 was not limited to wages. Income information [Redacted] included wages, interest, dividends, and stock sales. The taxpayer was asked to submit an Idaho return as required by law in order to correctly reflect her status as a part-year resident and use the proper formula for computing her capital gains. The Tax Commission has no knowledge of the taxpayer's basis in her stock purchases and sales.

The taxpayer appeared to ignore that letter and one additional letter wherein she was again asked to file her 1998 Idaho income tax return. The taxpayer's file was transferred to the Legal/Tax

Policy Division for administrative review. The taxpayer did not respond to an additional letter advising her of her appeal rights.

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 an Idaho income tax return for 1998. She has not filed the return and has submitted nothing that would cast doubt on the Bureau's determination of tax due, which was calculated after considering income information [Redacted] and records retained by the Tax Commission. Withholding that could be identified in Tax Commission records offset a portion of the resulting tax. 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 her argument, the taxpayer has failed to meet her 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 December 9, 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>
1998	\$2,824	\$706	\$873	\$4,403

Interest is computed through August 1, 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

\_\_\_\_\_  
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]  
\_\_\_\_\_