

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 16216
[Redacted])
) DECISION
Taxpayer.)
_____)

On November 1, 2001, the staff of 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 the taxable years 1998 through 1999 in the total amount of \$29,651.

On January 2, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer claimed losses since 1994 and promised to send tax returns showing that the Notice of Deficiency Determination was in error. No documentation was provided with the protest or following the protest. On July 25, 2002, the auditor called the taxpayer and left a message, but the call was not returned.

On August 5, 2002, the Commission sent a standard hearing rights letter to the taxpayer offering the opportunity for the taxpayer either to provide documentation in defense of adjusting the deficiency or to schedule an informal hearing with the Commission for that purpose. On September 3, 2002, the taxpayer responded by letter asking for additional time to provide documentation in lieu of a hearing. The taxpayer claimed that a family medical hardship caused a delay in responding earlier.

The taxpayer promised to send documentation by October 15, 2002. On November 27, 2002, the Commission wrote once again stating that, if a medical problem continued to prevent the taxpayer from providing documentation, proof of this medical problem was required. On

December 24, 2002, the taxpayer responded with a letter accompanied by an invoice for dialysis services, and asked for additional time. The taxpayer has not responded since that letter.

The taxpayer has an active payroll withholding tax account with the Commission and has filed through the period ending September 30, 2003. The taxpayer has filed wage information with the Idaho Department of Labor for the calendar years 1994 through at least 2001, with two to five employees' wages reported. An annual report was filed with the Idaho Secretary of State for 2002. A recent search for the taxpayer on the Internet search engine Google shows its name and the address used by the Commission for the Notice of Deficiency Determination and subsequent correspondence. An Internet search in the Dex Official Directory of Qwest for business listings shows the taxpayer's name and address as well.

With no information from the taxpayer, the auditor used payroll information from the Idaho Department of Labor to prepare tax returns for the taxable years in question. The auditor made adjustments based on a 1997 net operating loss carryforward and an estimated tax payment.

The Tax Commission, having reviewed the file, hereby issues its decision. The taxpayer has not provided the Commission with information to establish that the amount asserted in the Notice of Deficiency Determination is incorrect. As a result, the Commission will uphold the tax deficiency notice, as adjusted, for the taxable years 1998 and 1999. A determination of the State Tax Commission is presumed to be correct. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). A State Tax Commission deficiency is presumed to be correct and the burden is on the taxpayer to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). Absent information

to the contrary, the Tax Commission finds the deficiency prepared by the Bureau to be a reasonably accurate representation of the taxpayer's taxable income for years 1998 and 1999.

The Bureau added interest and penalty to the taxpayer's Idaho tax deficiency. The Tax Commission reviewed those additions, found both to be appropriate per Idaho Code sections 63-3045 and 63-3046, and has updated interest accordingly.

WHEREFORE, the Notice of Deficiency Determination dated November 1, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED and MADE FINAL.

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

<u>REPORTING YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$11,881	\$2,970	\$2,518	\$17,369
1999	8,841	2,210	1,231	12,282
 <u>INTEREST ACCRUAL</u>				
From January 11, 2002			1,407	1,407
2003			1,033	1,033
To May 31, 2004			514	<u>514</u>
TOTAL DUE				<u>\$32,605</u>

Interest is calculated through May 31, 2004 and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

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

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]Receipt No.

[Redacted] _____