

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17200
[REDACTED] Petitioner.)	
)	DECISION
)	
)	
_____)	

On February 13, 2003, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer), proposing income tax, penalty, and interest for taxable year 1997 in the amount of \$5,233.

The taxpayer filed a timely protest. He did not request a hearing and did not submit additional information. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

[Redacted] The Bureau sent the taxpayer a letter asking for information; however, the taxpayer did not respond.

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 taxpayer did not file his 1997 Idaho income tax return, the Bureau prepared a return on his behalf and sent him a NODD based on the figures shown in the Tax Calculation Summary [Redacted].

A Certified Public Accountant (CPA) responded to the NODD in a letter that objected to the determination of income [Redacted]. He attached copies of correspondence [Redacted] The Power of Attorney form did not grant the Tax Commission permission to discuss tax matters with the CPA.

The Bureau wrote back to the taxpayer to acknowledge his protest. Subsequently, the CPA was asked to provide an executed Power of Attorney form that would grant the Tax Commission permission to communicate directly with the CPA. The taxpayer's file was transferred to the Legal/Tax Policy Division of the Tax Commission for administrative review.

The Tax Appeals Specialist sent the taxpayer a letter advising him of his appeal rights. The letter, dated December 5, 2003, put the taxpayer on notice that the Tax Commission would issue a decision based on the contents of his file if a response was not received with 30 days. The letter also asked the taxpayer to complete and return the enclosed Power of Attorney form.

On February 2, 2004, the CPA telephoned and said nothing had happened [Redacted]. Because the Power of Attorney form had not been submitted, the Specialist advised the CPA the Tax Commission could not communicate with him directly; and the CPA hung up. On February 4, 2004, the CPA telephoned to ask for a blank Power of Attorney form to be faxed to him. The Specialist faxed the requested form to him. No further communication has been received from either the taxpayer or his CPA.

The taxpayer met the requirements for filing an Idaho income tax return for 1997. The Tax Commission has no record of the return being filed. The Bureau computed the taxpayer's Idaho income tax responsibility for \$49,359 of income that various [Redacted] forms [Redacted] showed

was disbursed to the taxpayer in 1997. He was allowed the standard deduction and one personal exemption. No Idaho withholding was identified in Tax Commission records.

In his protest letter, the CPA said the taxpayer did not owe taxes for 1997 because he did not work that year. He said the taxpayer lived on money derived from selling stocks that he had inherited from his mother. [Redacted] The CPA enclosed a copy of a letter he had written [Redacted] dated March 5, 2003 and a copy of a Judgment of Conviction of a Probation Violation Suspended and Order of Probation showing the taxpayer had been incarcerated for three years. He did not include anything to establish a basis in the stock the taxpayer sold in 1997.

The taxpayer does not deny he received dividends and sold stock to pay his living expenses during 1997. He does not deny he was required to file state and federal income tax returns and that he has not filed those returns. Without stock information and a tax return to show the taxpayer's basis in the stock that was sold, the Tax Commission is left with little choice but to determine the tax based on [Redacted]. 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 his argument, the taxpayer has failed to meet his 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 February 13, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest for 1997:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$3,222	\$806	\$1,376	\$5,404

Interest is computed through May 1, 2004.

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 _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2004, 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]

Receipt No.
