

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17314
[Redacted],)	
)	DECISION
Petitioners.)	
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)	

On February 20, 2003, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 1993 through 2000 in the total amount of \$23,157.

On April 22, 2003, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Tax Commission's hearing rights letter and have not provided anything further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that showed [Redacted] received wages from an Idaho employer. The Bureau researched the Tax Commission's records and found that [Redacted] had not filed Idaho income tax returns. [Redacted]The Bureau sent the taxpayers a letter asking about their requirement to file Idaho income tax returns, but the taxpayers failed to respond.

The Bureau reviewed other information available to the Tax Commission and determined the taxpayers were required to file Idaho income tax returns. The Bureau prepared returns for the taxpayers for the taxable years 1993 through 2000 and sent them a Notice of Deficiency Determination. The taxpayers protested the Bureau's determination.

The taxpayers stated they did not owe any tax to the state of Idaho for the years 1993 through 2000. They stated that [Redacted]did not earn any income in Idaho in those years except

for three months in 2000. They stated [Redacted] worked in the state of Utah and that state taxes were collected by Utah. For the three months that [Redacted] worked in Idaho, they stated taxes were collected by Idaho. Since [Redacted] worked mostly in Utah, and Idaho collected the tax at the time he worked in Idaho, the taxpayers asserted that they owe no tax to the state of Idaho.

The Bureau referred the matter for administrative review. The Tax Commission sent the taxpayers a letter giving them two alternative methods for redetermining the Notice of Deficiency Determination. The taxpayers did not respond. The Tax Commission sent a follow-up letter to the taxpayers, but still the taxpayers failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayers purchased a house in [Redacted], Idaho in June 1993. In addition to purchasing the house, the taxpayers applied for and received the homeowner's exemption on their house in [Redacted]. The taxpayers registered several vehicles in Idaho and they acquired Idaho driver's licenses. In 2000, Mr. [Redacted] purchased a resident Idaho fish and game license on which he stated he was an Idaho resident for eight years.

Idaho Code section 63-3002 states that it is the intent of the Idaho legislature to tax residents of this state measured by their income from all sources wherever derived. It is apparent from the information available that the taxpayers were residents of Idaho from 1993 through 2000. Therefore, if the taxpayers received income in excess of the filing requirements of Idaho Code section 63-3030, they were required to file Idaho income tax returns.

Idaho Code section 63-3030 states that if an individual is required to file federal income tax returns as provided in Internal Revenue Code (IRC) section 6012(a)(1), the individual is required to file Idaho income tax returns. The taxpayers filed federal income tax returns for the

taxable years 1993 through 1997. Therefore, according to Idaho Code section 63-3030, the taxpayers should have filed Idaho income tax returns for those years.

[Redacted] Therefore, the taxpayers should have also filed Idaho income tax returns for the taxable years 1998 through 2000.

The taxpayers stated that [Redacted] only worked in [Redacted] and that their taxes were collected by [Redacted] and then by Idaho for three months. As stated previously, Idaho Code section 63-3002 imposes a tax on residents of Idaho measured by their income from all sources wherever derived. Consequently, if [Redacted] was a resident of Idaho, which the available information shows he was, he is required to report to Idaho the wages he received while working in Utah. As for the taxes paid to or collected by [Redacted], Idaho Code section 63-3029 provides for a credit for taxes paid to another state against the tax imposed by the Idaho income tax act. Therefore, if the taxpayers paid tax to [Redacted], which they should have, they could claim a credit (computed per the provisions of Idaho Code section 63-3029) against the tax owed to Idaho. However, the taxpayers provided nothing to show tax was paid to the state of Utah.

The taxpayers stated Idaho collected tax for the three months [Redacted] worked in Idaho in 2000. By this statement, the Tax Commission assumed the taxpayers were saying Mr. [Redacted]'s employer withheld tax from his wages. The Tax Commission reviewed the returns the Bureau prepared for the taxpayers and found that no withholdings were allowed. The Tax Commission looked into the information available and found nothing to show any withholdings were made on the taxpayers' wages. However, while researching the Tax Commission's records further, the Tax Commission found withholdings for Mr. [Redacted] for 2000 and for Mrs. [Redacted] for 1998. Since this information is available to the Tax Commission, it should be added to the returns the Bureau prepared for the taxpayers.

The taxpayers claimed they owe no tax to the state of Idaho. However, they have provided nothing to show this is the case. They have not met their burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984). Therefore, the Tax Commission upholds the Bureau's determination that the taxpayers were required to file Idaho income tax returns.

On the returns the Bureau prepared, the taxpayers were allowed dependent exemptions for six children for the years 1994 through 1997. For 1993, the taxpayers were allowed five exemptions. However, for the years 1998 through 2000, the taxpayers were allowed no exemptions for dependent children. The Tax Commission reviewed this and determined that even though the taxpayers did not make a claim for the additional dependent exemptions, it is reasonable to assume the taxpayers were still eligible to claim dependent exemptions. Therefore, the Tax Commission adjusted the returns the Bureau prepared for 1998 through 2000 to include dependent exemptions.

WHEREFORE, the Notice of Deficiency Determination dated February 20, 2003, 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 taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1993	\$ 882	\$ 221	\$ 688	\$ 1,791
1994	778	195	548	1,521
1995	736	184	454	1,374
1996	1,170	293	625	2,088
1997	812	176	363	1,351
1998	1,800	450	666	2,916
1999	4,012	1,003	1,193	6,208
2000	(397)			<u>(397)</u>
			TOTAL DUE	<u>\$16,852</u>

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

An explanation of the taxpayers' rights to appeal this decision is enclosed 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.
