

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 17430
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On April 24, 2003, the staff of the Tax Discovery 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 2000 in the total amount of \$25,392.

On June 13, 2003, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to submit income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that showed the taxpayer received wages while working in Idaho. The Bureau researched the Tax Commissions records and found that the taxpayer did not file Idaho individual income tax returns for the taxable years 1998 through 2000. The Bureau sent the taxpayer a letter asking him about his Idaho filing requirement, but the taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer was required to file Idaho income tax returns.

The Bureau prepared income tax returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer disagreed with the Bureau's determination and protested the Notice of Deficiency Determination. The taxpayer stated that the Bureau did not consider state withholdings and only allowed him the standard deduction rather than itemized

deductions. He stated that, if these items were included, he would be owed a small refund. The taxpayer stated he would provide returns to the Bureau as soon as he could get the necessary documentation to his accountant.

The Bureau allowed the taxpayer additional time to provide his income tax returns, but after a couple of months and still no returns, the Bureau referred the matter for administrative review. The Tax Commission sent the taxpayer a letter giving him two alternative methods for having the Notice of Deficiency Determination redetermined. The taxpayer responded that he needed more time to get all his information together. The taxpayer requested an additional 60 days to submit returns for consideration.

The 60 days passed and still the taxpayer had not provided his returns. The Tax Commission sent the taxpayer another letter giving him a final date on which to have the returns completed. The taxpayer responded that he would have his returns to the Tax Commission by the end of the first week in January 2004. The taxpayer did mail his returns in the first week of January, and the Tax Commission received them shortly thereafter.

The Tax Commission reviewed the taxpayer's returns and found that they represented the taxpayer's taxable income better than the returns prepared by the Bureau. Therefore, the Tax Commission accepted the taxpayer's returns, subject to the normal review process of the Tax Commission.

The taxpayer's 1999 and 2000 returns resulted in refunds. However, Idaho Code section 63-3072 states that a claim for credit or refund of state withholdings must be made within three years from the due date of the return, without regard to extensions, for the taxable year in respect to which the tax was withheld or paid. The Tax Commission received the taxpayer's returns on January 5, 2004. The taxpayer's 1999 return was due on April 15, 2000. His 2000 return was

due on April 15, 2001. Since the 1999 return was received after the three year statute, the refund for that year is not available for refund or credit.

The taxpayer's 1998 return resulted in tax due the state of Idaho. Idaho Code sections 63-3045 and 63-3046 provide that interest and penalty shall be applied to deficiencies in tax when a return is not filed by the due date of the return. The taxpayer's 1998 return was due on April 15, 1999. The Tax Commission received the taxpayer's 1998 return on February 3, 2004. Therefore, the Tax Commission finds that the interest and penalty are appropriate and hereby adds them to the taxpayer's tax liability.

WHEREFORE, the Notice of Deficiency Determination dated April 24, 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 taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$196	\$ 49	\$ 65	\$ 310
1999	0			0
2000	<270>			<u>&lt;270&gt;</u>
			TOTAL DUE	\$ 40
		LESS AMOUNT	REMITTED	<u>&lt;196&gt;</u>
			REFUND	<u>\$&lt;156&gt;</u>

An explanation of the 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

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]  
[REDACTED]

Receipt No.

\_\_\_\_\_