

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 17538
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On August 19, 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 2001 in the total amount of \$11,268.

On May 1, 2003, the taxpayer filed a timely appeal and petition for the redetermination of a Notice of Deficiency Determination dated February 27, 2003, issued to his wife, [Redacted]. The August 19, 2003, Notice of Deficiency Determination was sent to the taxpayer because of a correction and the cancellation of the February 27, 2003, Notice of Deficiency Determination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided no additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer and his wife own and operate a business in the [Redacted] area. The Tax Discovery Bureau (Bureau) examined the filing requirements of the taxpayer's wife and determined that the taxpayer had a filing requirement for the taxable years 1998 through 2001 because of Idaho's community property laws. The Bureau prepared returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer had previously protested the Bureau's determination regarding his wife's filings, so the Bureau consolidated the two matters under the one protest.

In the taxpayer's protest letter, he stated the returns were not filed because he was working to keep their business doors open. He stated he was 71½ years old and working on average 100 hours per week on their business. He stated he did not know how the Bureau arrived at its adjusted gross income amount. Their business never generated that amount of income. Mr. [Redacted] stated he had their 2001 taxes about 25% completed and hoped to have them finished in a couple of weeks. He stated their adjusted gross income after all the deductions would be closer to \$0 than to the amount the Bureau determined. Mr. [Redacted] said it would take some time, but he intends to submit income tax returns for consideration.

The Bureau allowed the taxpayer additional time to provide returns, but none were provided. Therefore, the Bureau referred the matter for administrative review. In the administrative review, the Tax Commission also consolidated this matter and the protested deficiency determination of the taxpayer's wife. Therefore, hereinafter the taxpayer and his wife, [Redacted], are referred to as taxpayers.

The Tax Commission sent the taxpayers a letter giving them two options for redetermining the Notices of Deficiency Determination. The taxpayers did not respond. The Tax Commission sent a follow-up letter to the taxpayers but still received no response. Therefore, the Tax Commission decided the matter based upon the information available.

The Bureau obtained information that showed the taxpayers had income in excess of the filing requirements of Idaho Code section 63-3030 for each of the years in question. This information included wages earned by Mrs. [Redacted], distributions from IRAs and/or other retirement plans, and agricultural subsidies. In addition, the Bureau obtained a credit application completed in January 2001 by Mrs. [Redacted] that stated she had gross monthly income from

employment of \$775 and that, as a co-owner of a business with her husband, she had other monthly sources of income of \$5,000.

The Bureau used this information in its Notice of Deficiency Determination dated February 27, 2003, to determine Mrs. [Redacted]'s income. However, after receiving the taxpayers' protest letter, the Bureau found that its February 27, 2003, Notice of Deficiency Determination was in error. The Bureau cancelled that determination and issued new Notices of Deficiency Determination dated August 19, 2003, to each of the taxpayers as separate individuals. The Bureau did this to comply with the community property laws of the state of Idaho.

The taxpayers stated the income was greater than what their business had generated. They stated their adjusted gross income would be closer to \$0 than what the Bureau determined. However, the taxpayers did not provide anything to substantiate their claim of a near \$0 adjusted gross income. 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, in absence of any information to the contrary, the Tax Commission upholds the Bureau's determination.

WHEREFORE, the Notice of Deficiency Determination dated August 19, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$1,987	\$497	\$735	\$3,219
1999	1,978	495	588	3,061
2000	1,935	484	420	2,839
2001	1,818	455	255	<u>2,528</u>
			TOTAL DUE	<u>\$11,647</u>

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 enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2004.

IDAHO STATE TAX COMMISSION

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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.

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