

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17599
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On July 7, 2003, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers), proposing income tax, penalty, and interest for taxable years 1995, 1998, and 2000 in the total amount of \$3,548.

The taxpayers filed a timely appeal. They did not submit additional information and did not request a conference. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Tax Commission records showed the taxpayers met the state income tax filing requirements and had not filed Idaho returns for taxable years 1995, 1998, and 2000. The Bureau attempted to contact the taxpayers for an explanation, but they did not respond to the inquiries.

[Redacted] 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.

The Bureau prepared returns on behalf of the taxpayers and sent them a NODD, which [Redacted] protested. On September 8, 2003, in a letter he hand delivered to one of the Tax Commission's field offices, [Redacted] said he and his wife had separated two years ago. He said his wife had always done the taxes, so he did not have knowledge of the missing tax returns. He agreed with a portion of the determination stating:

I agree that I must owe for '98 in the amount of \$445.00 tax pen. & int., but for the year 2000, this should have been paid by a gift from my mother and sent to you to cover this tax.

He went on to explain that, when he asked the Tax Commission about the payments, he was told they were applied to tax year 2002. [Redacted] said he wanted the payments applied to 2000 to avoid penalty and interest. In reference to 1995, [Redacted] said he was not a resident of Idaho that year. In addition, he said he wanted 1998 and 2000 filed as married filing separately because he did not have his wife's records.

The Bureau wrote the taxpayers a letter acknowledging [Redacted]'s protest and a second letter to [Redacted] responding to the concerns expressed in his letter. The Bureau advised [Redacted] the 1995 determination could be canceled if he would submit proof of residency. Secondly, the Bureau told [Redacted] he needed to provide the returns for any years he wished to file as married filing separately.

The Bureau included a detailed statement showing the date each of the six payments from [Redacted]'s mother was received, the amount of the payment, and what year the Tax Commission was directed to apply the money against. Four out of the six payments were received with instructions to apply the payment to tax year 2001. The two payments that arrived with no directions were also applied to 2001, because it was the only year with a balance due. Because the taxpayers' 2000 return had not been filed, the accounts receivable did not list an amount for that

year. The total of the payments received was the same total due for the taxpayers' 2001 Idaho income tax. The Bureau advised Mr. [Redacted] the payments appeared to have been properly applied.

Nothing further was heard from either of the taxpayers and their file was transferred to the Legal/Tax Policy Division for administrative review. The Tax Appeals Specialist sent the taxpayers a letter explaining their options regarding their appeal. However, the letter did not prompt a response from the taxpayers.

Tax Commission records show that during the years 1995, 1998, and 2000 the taxpayers were Idaho residents with Idaho sourced income in excess of Idaho's filing requirement. The taxpayers have not filed Idaho individual income tax returns for any of the years at issue and have not indicated when the Tax Commission might expect to receive those returns.

The Bureau used the taxpayers' income amounts shown in [Redacted] records to calculate the Idaho tax. The taxpayers were allowed the standard deduction and credit for three personal exemptions for the years 1995 and 1998 and two personal exemptions for 2000. Withholding (\$1,042 for 1998 and \$1,448 for 2000) identified in Tax Commission records was allowed to offset a portion of the tax. The Bureau added interest and penalty pursuant to Idaho Code §§ 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them proper and in accordance with Idaho Code.

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 their argument, the taxpayers have failed to meet their 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 July 7, 2003, is hereby 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>
1995	\$ 913	\$228	\$541	\$1,682
1998	284	71	98	453
2000	1,025	256	197	<u>1,478</u>
			TOTAL	<u>\$3,613</u>

Interest is computed through April 1, 2004.

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

An explanation of taxpayers' 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]

[Redacted]