

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [REDACTED] Petitioner.) DOCKET NO. 17629
)
) DECISION
)
)
)

On July 24, 2003, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for tax years 1997 through 2001 in the total amount of \$47,285.

The taxpayer, through her attorney, protested the determination and submitted three years of completed Idaho income tax returns. No other information was provided. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Information available to the Tax Commission indicated the taxpayer was an Idaho resident who met the filing requirements during the years in question. Because the Tax Commission's files did not include the taxpayer's income tax returns, the Bureau prepared Idaho individual income tax returns on the taxpayer's behalf and issued a notice of a deficiency.

The taxpayer's representative protested that determination and sent the taxpayer's returns for tax years 1997 through 1999. Returns for the years 2000 and 2001 were not received. The Bureau notified the taxpayer that her returns would be accepted as filed, and the portion of the deficiency determination addressing the years 1997, 1998, and 1999 was canceled. Therefore, this decision will address the taxpayer's Idaho income tax responsibility for tax years 2000 and 2001 only.

On January 14, 2004, the taxpayer's representative telephoned the Bureau to say he was no longer representing the taxpayer. That telephone call was followed by a fax that confirmed the representative had resigned as the taxpayer's power of attorney with the Tax Commission.

The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter from the Tax Appeals Specialist that outlined her appeal rights.

Idaho Code § 63-3002 defines the intent of the Idaho legislature regarding Idaho income tax:

63-3002. Declaration of intent. -- It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. All of the foregoing is subject to modifications in Idaho law including, without limitation, modifications applicable to unitary groups of corporations, which include corporations incorporated outside the United States.

Idaho Code § 63-3030 establishes the filing requirement for an Idaho income tax return:

63-3030. Persons required to make returns of income. -- (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

The taxpayer does not deny she is required by law to file Idaho income tax returns for 2000 and 2001; yet, she has not filed those returns. The taxpayer's Idaho income tax responsibility was calculated from information contained in W-2s and 1099s [Redacted] and other information retained by the Tax Commission. [Redacted]

The Bureau calculated the taxpayer's Idaho tax using the standard deduction and one exemption. Withholding (\$1,050 for 2000 and \$888 for 2001) and the grocery credit reduced the tax due. Interest and penalty was added 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 Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer has failed to file Idaho income tax returns for 2000 and 2001. Absent information to the contrary, the Tax Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for 2000 and 2001.

WHEREFORE, the Notice of Deficiency Determination dated July 24, 2003, is hereby MODIFIED 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>
2000	\$8,874	\$2,219	\$1,705	\$12,798
2001	2,618	655	301	<u>3,574</u>
		TOTAL DUE		<u>\$16,372</u>

Interest is calculated through April 1, 2004.

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

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]
