

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17860
[Redacted])	
Petitioners.)	DECISION
)	
)	

On October 8, 2003, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted](petitioners), proposing income tax, penalty, and interest for the years 1998, 1999, 2000, and 2001 in the total amount of \$22,499.

On December 9, 2003, a timely protest and petition for redetermination was filed by the petitioners. An informal hearing has not been requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The petitioners did not file their Idaho individual income tax returns for the years 1998, 1999, 2000, and 2001. On April 17, 2003, the Tax Discovery Bureau sent a letter and a questionnaire to the petitioners to help the Commission properly determine the petitioners' filing requirement. The petitioners did not respond to this letter, [Redacted] The petitioners' income for 2000 was based on their W-2 and 1099 information. The petitioners' income for 2001 was based on an average of their income for the years 1998 through 2000.

The petitioners protested the NOD in a letter dated December 9, 2003, in which they stated:

We are writing to disagree with the determination you have issued for Idaho income tax. The amount of income that you have based your determination on is incorrect. Our income has been drastically reduced in the last four years and we are in the process of filing chapter 13. We had an accountant in [Redacted] that we owed money to and he would not released to us our tax info needed to complete our taxes until we had paid him off, which we have finally done. Tax years 98 & 99 will be ready for filing by December 15,

and 2000 & 2001 will be filed by January 5, 2004, with the true and correct amount that is due. We thank you for your patience in this matter.

In a letter dated December 22, 2003, TDB informed the petitioners that they had filed a timely protest of the amount asserted in the NOD dated October 8, 2003. Also in that letter, TDB requested that the petitioners provide their 1998 through 2001 Idaho individual income tax returns by January 19, 2004.

On February 9, 2004, TDB sent the petitioners another letter requesting they provide their individual income tax returns in question.

On April 5, 2004, the petitioners' 1999 income tax return was received and processed by the Commission. The petitioners' 1999 income tax return will not be addressed any further in this decision.

Since the petitioners did not provide TDB with the other returns, TDB sent their file to the Legal/Tax Policy Division for further review.

On April 19, 2004, the Tax Policy Specialist (policy specialist) sent the petitioners a letter to inform them of their alternatives for redetermining a protested NOD. The letter was returned marked "moved left no address unable to forward return to sender."

It is well settled in Idaho that a NOD issued by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioners to show that the tax deficiency is erroneous. Id. Since the petitioners have failed to meet the burden in this case, the Tax Commission finds that the amount shown due on the Notice of Deficiency Determination for tax years 1998, 2000, and 2001 is true and correct.

[Redacted] Since the petitioners have not provided the Commission with a contrary result to the Commission's original determination for the years 1998, 2000, and 2001, the Commission must uphold the deficiency for these years.

WHEREFORE, the Notice of Deficiency Determination dated October 8, 2003, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$3,227	\$807	\$1,215	\$5,249
2000	3,242	811	726	4,779
2001	5,069	1,267	742	<u>7,078</u>
			TOTAL DUE	<u>\$17,106</u>

Interest is computed through October 9, 2004.

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

An explanation of the petitioners' 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]

Receipt

