

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 18202
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On June 8, 2004, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer), proposing additional individual income tax and interest in the amount of \$12,804 for the years ending December 31, 1998, through December 31, 2002.

The taxpayer filed a timely appeal and petition for redetermination. A conference was not requested; however, additional information was submitted. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

Tax Commission records showed the taxpayer met the state income tax filing requirements and had not filed Idaho returns for taxable years 1998 through 2002. The Bureau attempted to contact the taxpayer for an explanation, but he 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.

Because the taxpayer had not filed Idaho income tax returns for the years 1998 through 2002 and did not respond to correspondence, the Bureau prepared returns on his behalf and sent him a NODD. The taxpayer responded by letter stating the delay in filing his returns was the result of the immigration process and the need to obtain the necessary TIN numbers for his dependents. He said he would be happy to provide documents to support his claim of dependents.

The Bureau wrote the taxpayer a letter acknowledging his protest, and his file was transferred to the Legal/Tax Policy Division for administrative review. Subsequently, the taxpayer submitted a copy of a federal Form 1040 for each of the years in question along with copies of his marriage license, his wife's [Redacted] passport, and [Redacted] birth certificates for the four children named in the returns.

Based upon the information in [Redacted] Tax Commission records, the Tax Commission finds the NODD should be modified to reflect the filing status, exemptions, deductions, and income [Redacted] the taxpayer submitted.

Although the taxpayer did not submit W-2s [Redacted], Idaho withholding for each year was identified in Tax Commission records. That withholding is allowed to offset the tax due. For years 1998 and 1999, the result is an overpayment that is controlled by Idaho Code § 63-3072.

Idaho Code § 63-3072(a), (b), and (c) state:

**63-3072. Credits and refunds.** -- (a) Subject to the provisions of subsections (b), (c) and (h) of this section, where there has been an overpayment of the tax imposed by the provisions of this chapter, the amount of such overpayment shall be credited against any tax administered by the state tax commission which tax is then due from

the taxpayer, and any balance of such excess shall be refunded to the taxpayer.

- (a) Except in regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.
- (b) **With regard to amounts withheld** as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, **a claim for credit or refund shall be made within three (3) 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. (Emphasis added.)

Idaho law provides for refund of overpayments; however, the claim for refund must be made within a certain timeframe. The time allowed for claiming the 1998 refund expired on April 15, 2002, and the time allowed for claiming the 1999 refund expired on April 15, 2003.

WHEREFORE, the Notice of Deficiency Determination dated June 8, 2004, 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 and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$ -0-	\$ -0-	\$ -0-	\$ -0-
1999	-0-	-0-	-0-	-0-
2000	461	115	108	684
2001	522	131	82	735
2002	92	23	8	<u>123</u>
			TOTAL	<u>\$1,542</u>

Interest is computed to December 17, 2004.

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

An explanation of 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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#### 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]

[Redacted]

[Redacted]

[Redacted]

[Redacted]