

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18233
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On June 17, 2004, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer), proposing income tax, penalty, and interest for taxable years 1996 through 2001 in the total amount of \$13,917.

The taxpayer filed a timely appeal. He 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.

The taxpayer filed his 2002 Idaho individual income tax return timely but did not pay the tax due. He asked the Tax Commission to allow him to make payments over a period of time. Computer generated letters were sent, and the return was forwarded to the Compliance Bureau for a follow up on the request for a payment arrangement.

Following procedures, the collection staff researched Tax Commission records for the status of the taxpayer's income tax filings for the years prior to 2002 before establishing a payment schedule. The records showed no returns had been filed after the taxpayer filed his 1995 Idaho resident return. For the years 1989 through 1994, the Bureau had prepared returns on behalf of the taxpayer because he did not file his Idaho returns timely. Portions of the tax, penalty and interest for those years were discharged when the collection time allowed by law expired.

The collection staff contacted the taxpayer for an explanation. He was asked to file returns for the years 1996 through 2001 or provide evidence he did not have a filing requirement before the Tax Commission would enter into an agreement to allow him to pay his 2002 Idaho income tax over a period of time.

In response, the taxpayer provided federal wage and income information for the years 1996 through 2001. [Redacted] He asked the collection staff for assistance with completing the missing returns.

The collection staff completed Idaho resident returns for the taxpayer [Redacted]. Because the taxpayer's 1996 federal return was filed with a filing status of "Single" with no dependents and no federal returns were filed for the other years, the staff prepared the taxpayer's Idaho returns for all years (1996 through 2001) using a filing status of "Single" with no dependents.

The returns were sent to the taxpayer for signature, but the taxpayer did not sign them. The Compliance Bureau transferred the file to the Bureau for follow up, and the 2002 Idaho tax liability was transferred to the Tax Commission's field office for continuation of the collection process.

Because the taxpayer did not file Idaho income tax returns for the years 1996 through 2001 and did not sign the returns the Bureau prepared, the Bureau sent him a NODD. The figures shown in the NODD were the same as the amounts in the returns. The taxpayer protested, and his file was transferred to the Legal/Tax Policy Division for administrative review. The Tax Appeals Specialist sent the taxpayer a letter explaining his appeal options. He did not respond.

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.

Tax Commission records show that, during the years 1996 through 2001, the taxpayer received Idaho sourced income in excess of Idaho's filing requirement, and he did not file Idaho income tax returns. These facts the taxpayer does not dispute.

However, the taxpayer does dispute other facts. For 1996, the taxpayer states he was married. He said he was still married in 1997 and lived in a different state part of the year. He explained he divorced in early 1998 but remarried in 1999. For year 2000, he was married with three dependent children. He divorced in 2001, but one minor child remained his dependent. He stated he was an "Over the road truck driver" during the years 1997 through 2001. He did not submit any names or social security numbers or other information to substantiate his claims.

The taxpayer was provided Idaho income tax returns and instructions. He was also provided a pamphlet that was prepared by the Tax Commission to clarify Idaho tax law as it applies to residency and domicile. The pamphlet explains that Idaho remains the state of residency when an Idaho resident moves out of the state and then moves back to Idaho without establishing domicile in the other state.

In his protest letter, the taxpayer said he was entitled to claim his stepchildren as dependents because he supported them. However, when questioned during a telephone conversation with the Bureau staff, he said he was sure his wife filed separately and claimed the children in her return.

The Bureau prepared Idaho resident tax returns and a [Redacted].

Withholding that could be identified and the grocery credit reduced the tax amount. 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 of his argument, the taxpayer has failed to meet his 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 June 17, 2004, is hereby 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>
1996	\$1,904	\$476	\$1,055	\$ 3,435
1997	2,816	704	1,315	4,835
1998	837	209	326	1,372
1999	1,887	472	598	2,957
2000	547	137	130	814
2001	484	121	77	<u>682</u>
			TOTAL	<u>\$14,095</u>

Interest is computed through December 31, 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

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]
[REDACTED]

Receipt No.
