

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17517
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On June 9, 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 1999 through 2001 in the total amount of \$7,709.

The taxpayers filed a timely appeal. They did not submit additional information. 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 were Idaho residents who had not filed Idaho individual income tax returns from 1992 forward. [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 federal and state income records showed the taxpayers' total income for 1992

through 1998 was not sufficient to result in more than a minimal tax due, the Bureau did not further pursue tax returns for those years. The Bureau notified the taxpayers of the missing returns and asked them for an explanation. The taxpayers did not respond.

The Bureau sent the taxpayers a NODD addressing tax years 1999 through 2001 based on federal income records. The taxpayers protested in a letter signed by [Redacted] stating:

. . . Considering how little I earned, taken together with my large family and ongoing mortgage interest, I didn't realize the necessity for filing these returns. In review, perhaps I will need to file these after all.

It does seem rather unfortunate that the federal tax information you received appears to have failed to note how many children I have.

Please reconsider your determination taking into account exemptions for my 9 children. Also please take into account deductions I have coming for interest paid on my home together with miscellaneous business and other deductions. If you then feel we should pursue this matter further, let me know and I will file each of these returns as you feel appropriate.

The Bureau responded by letter acknowledging the protest and asking again for the returns. The returns did not arrive but an additional letter signed by [Redacted] did. He said he suffers from ongoing fatigue making his efforts painfully slow. He said he has looked into professional tax help but feels he can complete the forms himself because they are pretty straightforward. He asked for a lengthy delay stating: "If you could allow me plenty of time (taking my current condition into account), I'm sure I can get you the returns you are asking for. I am making slow, steady progress and I would estimate at my current progress rate we are looking at just a few more months or so. . . ."

He also, again, asked the Bureau to accept his simple statements regarding their children and to close the case. He said: "considering the circumstances, wouldn't it seem to rather behoove both you personally and the State of Idaho as well (and myself too) to simply to close the case and let's not burden ourselves any further?"

The Bureau put the file in abeyance to allow the taxpayers time to complete the three Idaho returns. When they did not arrive after many months, an additional letter asking for the returns or additional information was sent to the taxpayers. In that letter, the taxpayers were also advised of the date their protest file would be transferred to the Legal/Tax Policy Division for administrative review.

The taxpayers did not respond further and the file was transferred. The Tax Appeals Specialist sent a letter to the taxpayers to advise them of their rights regarding their appeal, but no response was received.

Tax Commission records show that during the years 1999 through 2001 the taxpayers were Idaho residents with Idaho sourced income in excess of Idaho's filing requirements. 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 federal records of the taxpayers' income to calculate the Idaho tax. The taxpayers were allowed the standard deduction and credit for two personal exemptions. 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.

Although Mr. [Redacted] stated the taxpayers have nine children, he did not identify the children or indicate how many children were dependents for each individual year. The Tax Commission cannot allow exemptions for dependents unless the dependents are identified with social security numbers for each separate year.

Mr. [Redacted] claims to have deductions that include both mortgage interest and business expenses. Yet, the taxpayers have provided no substantiation that would allow the Tax Commission to change the NODD.

The Tax Commission is left with no choice in the appeal. The taxpayers are required to file Idaho resident income tax returns. They have not filed Idaho returns for any of the years at issue. Unless the taxpayers file Idaho returns or provide additional information to show the Bureau's computations are in error, the Tax Commission is unable to adjust the NODD.

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 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 June 9, 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>
1999	\$2,356	\$589	\$818	\$3,763
2000	1,576	394	421	2,391
2001	1,488	472	283	<u>2,243</u>
			TOTAL	<u>\$ 8,397</u>

Interest is computed through July 1, 2005.

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 _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2005, 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]_____