

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17995
[REDACTED],)	
)	DECISION
Petitioners.)	
)	
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On February 2, 2004, 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 1997 through 2001 in the total amount of \$37,675.

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 for many years. The Bureau notified the taxpayers of the missing returns and asked them for an explanation. The taxpayers did not respond.

[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.

The Bureau sent the taxpayers a NODD addressing tax years 1997 through 2001. The taxpayers protested stating they were working with their accountant to get the matter resolved.

Over the course of the next several months, the taxpayers sent letters asking for additional time to have the returns prepared; and the Bureau sent letters asking the taxpayers to file their Idaho returns. Eventually, the taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review.

On December 23, 2004, the taxpayers sent a request for an informal conference and the date of February 2, 2005 was agreed upon. However, the taxpayers did not appear for the conference. The day after the scheduled conference the Tax Commission received a faxed message wherein [Redacted] explained that an automobile accident on their way to the conference prevented them from keeping the appointment.

The Tax Appeals Specialist sent a letter to the taxpayers to advise them their file would be put in abeyance for one additional month to allow them the opportunity to recover from their injuries and have the promised returns prepared. On March 9, 2005, [Redacted] sent a fax stating: "I had to take our taxes back to our accountant. There were some errors. He said he will get these back to me ASAP. Then, I will contact you and make an appointment."

The Tax Commission responded with a letter advising the taxpayers their file would be held an additional month to allow their accountant time to correct the returns for filing. On April 11, 2005, [Redacted] sent another fax asking for an appointment. However, that meeting did not materialize because [Redacted] sent yet another fax wherein she stated that her stepfather had just passed away. She said it would be necessary for her to make all arrangements regarding the death because her mother is afflicted with Alzheimer's disease. She said, "I will contact you as soon as I can. Please bear with me just a while longer."

The Tax Commission sent a letter dated May 12, 2005 advising the taxpayers their file would be held in abeyance until June 13, 2005. They were further advised that after that date the appeals process would continue to include the issuance of a decision based on the contents of their file. No response was received and to date no returns have been submitted.

Tax Commission records show that during the years 1997 through 2001 the taxpayers were Idaho residents with Idaho sourced income in excess of Idaho's filing requirement, facts the taxpayers do not deny. 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 them.

The Bureau used the income amounts shown in the taxpayers' federal records and other information available to the Tax Commission to calculate the Idaho tax. The taxpayers were allowed the standard deduction and credit for two personal exemptions. Withholding identified in Tax Commission records (\$61 for 1997, \$75 for 1999, \$259 for 2000, and \$333 for 2001) was allowed to offset a portion of the tax. 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 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).

Unless the taxpayers provide additional information showing the Tax Commission's computations are in error or file Idaho returns, the Tax Commission is unable to make adjustments to the tax amounts or the penalty and interest calculations.

WHEREFORE, the Notice of Deficiency Determination dated February 2, 2004, 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>
1997	\$4,635	\$1, 159	\$2,304	\$8,098
1998	5,288	1,322	2,220	8,830
1999	4,703	1,176	1,632	7,511
2000	4,524	1,131	1,208	6,863
2001	5,680	1,420	1,079	8,179
			TOTAL	<u>\$39,481</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]