

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 18192
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On June 4, 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 1997 and 1998 in the total amount of \$6,218.

The taxpayer filed a timely appeal and submitted additional information. He did not request a conference. The Tax Commission hereby issues its decision based upon the information contained in the file.

Tax Commission records suggested the taxpayer met Idaho's income tax filing requirements for the years 1997 and 1998, but he had not filed Idaho returns. 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.

The Bureau prepared returns on behalf of the taxpayer and sent him a NODD. The taxpayer

responded stating; “. . . taxes for both years in question were paid by my employers. Im [sic] in the process of retrieving the information & documents needed to verify this.” He asked for a delay to allow him time to secure the needed information. That request was received on July 27, 2004.

The Bureau sent a letter acknowledging the appeal and asking him to submit returns and/or W-2s and Schedules. In the meantime, the Bureau continued its investigation to locate W-2s for 1998. Although the same employer employed the taxpayer during 1997 and 1998, the employer was unable to provide W-2s for 1997.

The Bureau prepared and sent the taxpayer a copy of a modified audit report that allowed credit for the 1998 withholding shown in the W-2s and used an estimated withholding for 1997. (The taxpayer’s employer had indicated a similar calculation of withholding would have been done for 1997 as for 1998.) A cover letter offered the taxpayer a choice of submitting returns or accepting the Bureau’s calculations and withdrawing his protest. The taxpayer telephoned the Bureau in January 2005 to ask for an additional 60 days to locate his W-2s.

At the end of the 60 days, the taxpayer’s file was transferred to the Legal/Tax Policy Division for administrative review. The Tax Appeals Specialist sent the taxpayer a letter explaining his options regarding his appeal. However, the letter did not prompt a response.

The taxpayer does not dispute he was a resident of Idaho who met the Idaho filing requirements during the years 1997 and 1998. Yet, he has not filed returns. The Bureau used income [Redacted] to calculate the taxpayer’s Idaho income tax responsibility. He was allowed the standard deduction and one personal exemption. No withholding was identified in Tax Commission records. However, when the taxpayer’s employer for those years furnished withholding information, the Bureau amended its determination reducing each year’s tax due.

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 modified deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated June 4, 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, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$ 99	\$ 25	\$ 49	\$ 173
1998	934	234	392	<u>1,560</u>
			TOTAL	\$1,733

Interest is computed through July 1, 2005.

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 \_\_\_\_\_, 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]  
\_\_\_\_\_