

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

In the Matter of the Protest of )  
 )  
 [REDACTED] ) DOCKET NO. 18226  
 )  
 Petitioner. ) DECISION  
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On March 23, 2004, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted](petitioner), proposing income tax, penalty, and interest for the years 1997 through 2001 in the total amount of \$249,121.

A timely protest and petition for redetermination was filed by the petitioner's secretary/treasurer on May 24, 2004. An informal hearing has not been requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

This was a nonfiler case. Idaho corporation income tax returns had not been filed by the petitioner for the years 1997 through 2001. The petitioner applied for and received an Idaho sales tax permit and an Idaho income tax withholding permit on October 1, 1994, and has since filed Idaho sales tax and income tax withholding returns. [Redacted] information showed that the petitioner had not filed federal income tax returns for the years 1997 through 2001.

On April 3, 2001, TDB sent the petitioner a letter notifying it that the Commission's records indicated that Idaho income tax returns had not been filed for the years 1997 through 1999. Another request for the petitioner's returns was sent on October 18, 2002 for the years 1997 through 2001. The petitioner did not respond to either letter.

On February 5, 2003, the TDB sent the petitioner a letter that requested the petitioner's Idaho corporation income tax returns be filed for tax years 1997 through 2001 or a NOD would be issued based on available information. Due to a lack of response from the petitioner, a NOD was issued on March 23, 2004, for income taxes for the tax years 1997 through 2001. The NOD was based on the total Idaho sales reported on the petitioner's Idaho sales tax returns.

The petitioner's secretary/treasurer sent a protest letter postdated May 24, 2004, in which she stated they would need an additional 60 days to get the returns filed.

On July 26, 2004, a power-of-attorney form was received via fax appointing [Redacted] as the petitioner's attorney-in-fact.

The petitioner's file was forwarded to the Commission's Legal/Tax Policy Division so that the petitioner could continue with the appeal process.

On September 16, 2004, the Tax Policy Specialist (policy specialist) sent the petitioner's representative a hearing rights letter to inform her of the alternatives for redetermining a protested NOD. On September 21, 2004, the representative called the policy specialist to inform him that all the petitioner's returns would be filed by the end of October 2004.

The Commission received the petitioner's 1997, 1998, and 1999 Idaho corporation income tax returns on February 25, 2005. The Tax Commission reviewed the petitioner's 1997, 1998, and 1999 Idaho corporation income tax returns and found the returns were a better representation of the petitioner's net income for the taxable years 1997, 1998, and 1999. Therefore, the Tax Commission accepts the petitioner's 1997, 1998, and 1999 returns in lieu of the returns prepared by the Tax Discovery Bureau for those years. The Commission has not received the petitioner's 2000 and 2001 Idaho corporation income tax returns. The petitioner's income tax returns for the years 1997, 1998, 1999, 2000, and 2001 have not been audited and are

subject to the normal review process of the Commission.

The petitioner made an estimated payment with its extension for its 1997 return. The petitioner also paid the amount of tax shown due on its 1998 and 1999 corporation income tax returns when the returns were filed. These partial payments were first applied to the interest due and then to the tax due on those returns as required by the Tax Commission's Administrative and Enforcement Rule 140.

The petitioner did provide actual returns for tax years 1997, 1998, and 1999 but has not provided the Commission with a contrary result to the determination of its income for the tax years 2000 and 2001 based on the total Idaho sales reported on the petitioner's Idaho sales tax returns[Redacted] Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated March 23, 2004, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$ (1)	\$ 0	\$ 0	\$ (1)
1998	477	298	27	802
1999	638	489	36	1,163
2000	43,626	10,907	13,191	67,724
2001	41,812	10,453	9,419	<u>61,684</u>
			TOTAL DUE	<u>\$131,372</u>

Interest is computed through February 2, 2006.

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

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

[REDACTED]

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