

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 18583
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On December 8, 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, 1998, and 1999 in the total amount of \$5,352.

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

Tax Commission records showed the taxpayer was an Idaho resident who appeared to meet the state income tax filing requirements. The Bureau attempted to contact the taxpayer for an explanation of why his 1997 through 1999 Idaho returns had not been filed, 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 the missing Idaho returns on behalf of the taxpayer and sent him a NODD. The taxpayer filed a timely protest and his file was transferred to the Legal/Tax Policy Division for administrative review. He did not respond to a letter advising him of choices regarding his appeal.

The taxpayer stated in his protest letter that he received refunds in subsequent years. He asked why he would receive refunds if tax was owed. In addition, he questioned “how you guys can drag something up from the past and slap it on someone.”

Idaho Code § 63-3030 states the filing requirements for an Idaho resident as follows:

**63-3030. Persons required to make returns of income.** (a)

Returns with respect to taxes measured by income in this chapter shall be made by the following:

- (1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code. . . .

The time for filing the required Idaho returns is established by Idaho Code § 63-3032:

**63-3032. Time for filing income tax returns.** (1) Except as provided in section 63-3033, Idaho Code:

(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

(b) In the case of a return for any period of less than one (1) year, the return shall be filed on or before the date required in this section, or on or before such date as required for such tax period by the internal revenue code, whichever is later.

The taxpayer does not deny he was required to file Idaho income tax returns for the years at issue. He only questions why he was not contacted earlier and why his refunds for later years were allowed.

The taxpayer is responsible for the filing of his income tax returns. Idaho Code § 63-3068 provides a limitation on the time for the issuance of a NODD that would create a tax due. It states:

“ . . . shall be issued within three (3) years from either the due date of the return, without regard to extensions, or from the date the return was filed, **whichever is later.**” (Emphasis added.)

The later date would not be the due date. After the expiration of the due date, the later date would be whenever the taxpayer filed his returns. He did not file his Idaho returns; therefore, the three-year limitation does not come into play. The notification of tax due issued by the Bureau was within the requirements of the law. Because the taxpayer did not file his returns, the Tax Commission staff had no knowledge of tax due. There was no basis for withholding his refunds.

The Bureau used the information shown in W-2s and 1099s issued in the taxpayer's name and social security number to establish the taxpayer's income. The filing status of single and the standard deduction (both shown in the taxpayer's federal return information) were duplicated in the calculation of Idaho tax, and one personal exemption was allowed. Withholding that was identified in Tax Commission records (\$896 for 1997, \$1,256 for 1998, and \$1,148 for 1999), and the annual grocery credit reduced the tax amounts.

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 to support 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 December 8, 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>
1997	\$1,101	\$275	\$575	\$1,951
1998	1,063	266	473	1,802
1999	1,081	270	402	<u>1,783</u>
			TOTAL	<u>\$5,536</u>

Interest is computed through December 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

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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]

Receipt No.