

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18311
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On July 15, 2004, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for tax years 1997 through 2002 in the total amount of \$4,821.

The taxpayer protested the determination. He did not request a hearing but did provide additional information. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Idaho Code § 63-3030 states:

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).

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

Information available to the Tax Commission indicated the taxpayer was an Idaho resident who met the filing requirements for filing Idaho resident income tax returns during the years in question. Because the Tax Commission's files did not include the taxpayer's Idaho tax returns, the Bureau prepared Idaho individual income tax returns on the taxpayer's behalf and issued a notice of deficiency, which the taxpayer appealed.

In his letter of protest, the taxpayer said he was sure he had filed returns for all the years in question. He said he had located copies of the returns for years 1999 through 2002 but could not find the 1997 and 1998 returns. He said he would continue looking for them. On November 2, 2004, the Tax Commission received the taxpayer's Idaho returns for years 1999 through 2002.

The Bureau notified the taxpayer his 1999 through 2002 returns were accepted as filed and the NODD addressing those years was canceled. The taxpayer was asked to provide the 1997 and 1998 returns. After allowing the taxpayer time to prepare the missing returns, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

When a letter to the taxpayer outlining his appeal rights was returned as undeliverable and no new address was available, the Tax Appeals Specialist telephoned the tax preparer shown in the returns received on November 2, 2004. The Certified Public Accountant (CPA) said the taxpayer recently moved. He said he knew where he now lives so he would get the address and send it to the Tax Commission.

On June 22, 2005, the CPA called with a new address and telephone number for the taxpayer. A hearing rights letter was sent to the taxpayer using the new address. On July 26, 2005, the taxpayer called to say he had an appointment with the CPA. He said he would have the two missing returns by August 1, 2005. Several times after the agreed time passed, the taxpayer called to say he was trying to get in to see his CPA.

On November 2, 2005, the CPA called to say he had met with the taxpayer and was now ready to complete the missing returns. He faxed a copy of a fully executed Power of Attorney appointing himself to represent the taxpayer. Since that time, three telephone messages left on the CPA's voicemail by the Tax Appeals Specialist have gone unanswered. To date, the taxpayer's 1997 and 1998 Idaho individual income tax returns have not been filed with the Tax Commission.

The Bureau calculated the taxpayer's 1997 and 1998 Idaho income tax responsibility using the income records retained by [Redacted] the Tax Commission. [Redacted] 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). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer has failed to file Idaho individual income tax returns for 1997 and 1998. Absent information to the contrary, the Tax Commission accepts the Bureau's calculation of Idaho income tax due for those years. No withholding was identified.

WHEREFORE, the Notice of Deficiency Determination dated July 15, 2004, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pays the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$ 153	\$ 38	\$ 89	\$ 280
1998	1,436	359	728	<u>2,523</u>
			TOTAL DUE	<u>\$2,803</u>

Interest is calculated through December 31, 2005.

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

An explanation of the 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]

Receipt No.

[REDACTED]
