

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 19864
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On October 2, 2006, 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 1998 through 2001 in the total amount of \$8,740.

The taxpayer protested the determination. A hearing was held with the taxpayer and his attorney on May 15, 2007. 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 suggested the taxpayer had a requirement to file Idaho individual income tax returns for the years in question. Because the Tax Commission's files did not include the taxpayer's Idaho individual income tax returns, the Bureau prepared Idaho returns on the taxpayer's behalf and issued a Notice of Deficiency Determination (NODD). The

taxpayer's attorney (POA) to whom he had given his Power of Attorney appealed the determination.

In the letter of appeal, the POA explained that the taxpayer did not become a resident of Idaho until 2000. Based on that information and Tax Commission records, the Bureau cancelled the determination of tax, penalty, and interest for both 1998 and 1999. The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

During the informal conference, the taxpayer said he and his wife and two children moved to Idaho from [Redacted] in 2000. He said he would need to do some "research" in order to file an Idaho return for that year. He indicated he might be willing to accept the Bureau's calculations for tax year 2001. He agreed to submit any additional information he wished to have considered no later than July 1, 2007.

However, the Tax Commission did not receive the returns, and, when the Tax Policy Specialist contacted the POA to ask about the progress, the POA said he would contact the taxpayer to find out. The Tax Commission has had no further contact with the taxpayer or his POA.

The taxpayer's Idaho taxable income was determined by the information contained in the records of [Redacted] the Tax Commission. [Redacted]

The Bureau computed the taxpayer's Idaho income tax responsibility for 2000 using the filing status of single with one exemption. [Redacted] The filing status of married filing separate with two exemptions was used for 2001, because [Redacted] information indicated the taxpayer filed a federal return for 2001 using the filing status of married filing separate that year with only two exemptions being claimed.

Withholding in the amount of \$690 for tax year 2000 and \$35 for tax year 2001 was allowed to offset a portion of each year's tax due. Absent information to the contrary, the Tax Commission

accepts the Bureau's calculation of Idaho income tax due. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'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).

WHEREFORE, the Notice of Deficiency Determination dated October 2, 2006, 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>
2000	\$1,562	\$391	\$621	\$2,574
2001	1,690	423	542	<u>2,655</u>
			TOTAL DUE	<u>\$5,229</u>

Interest is calculated through August 1, 2007.

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 \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2007, 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.

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