

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14595
[Redacted],)	
)	DECISION
Petitioners.)	
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On January 12, 2000, the Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing additional individual income taxes, penalties, and interest in the amount of \$817 for the year ending December 31, 1994.

[Redacted] ([Redacted]) filed a timely appeal and petition for redetermination. She did not request a conference. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision based thereon.

Idaho Code § 63-3002 provides:

Declaration of intent. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; . . .

The intent of the Idaho Legislature is to follow the federal determination of income subject only to modifications contained in Idaho law. [Redacted]. Because Tax Commission records showed that income had not been reported to Idaho either, a Notice of Deficiency was issued.

In response to the deficiency notice, [Redacted] wrote a letter wherein she protested the determination that she should be held responsible for the taxes due on the unreported income. She explained her position as that of an innocent spouse. She said she and [Redacted] ([Redacted]) had

separated in 1996 and divorced in 1997. She said when she sent payments to the IRS and the Tax Commission in 1996 she thought she was paying all of the back taxes. It was not until her 1998 federal refund was seized that she became aware of the discrepancy regarding their 1994 income. She explained the reason for her lack of knowledge was that the notices were mailed to [Redacted] address and he had failed to notify her.

[Redacted] asked the Tax Commission to consider her an innocent spouse because she did not know her husband had not included all of their income when he had their 1994 income tax returns prepared. She said for the 19 years they were married she turned over all of her tax information to [Redacted] and he had handled the preparation of their tax returns.

The Bureau wrote to [Redacted] acknowledging her protest and advising her that the Bureau would place her file in abeyance to allow time for her to receive a response from the IRS. When time passed and no new information was received, the Bureau sent another letter to [Redacted] asking her for an update on her progress with the IRS. [Redacted] did not respond to that letter and the taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review. [Redacted] did not respond to a letter from the Legal/Tax Policy Division that outlined her appeal rights. Nothing further has been received from either of the taxpayers.

The return that was prepared by a third party shows [Redacted] signature just below the Idaho adjusted gross income that was reported as \$18,859 for the year. [Redacted] income of \$21,966 was clearly not included in that sum nor was her W-2 attached. Two W-2s from [Redacted] employers were attached. It is reasonable to assume [Redacted] should have known the income amount was incorrect.

The taxpayers filed their federal individual income tax return with a filing status of married filing joint. The 1994 Idaho Code § 63-3031(b)(3) stated:

(3) If a joint return is made, the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

Because the taxpayers chose to file joint tax returns with the IRS and the state of Idaho, the state of Idaho has the right to hold the taxpayers jointly and severally liable. One spouse may have a cause of action against the other spouse. However, the state remains in a neutral position. Joint and several liability simply means the state may collect any portion of the liability up to the entire amount from either spouse.

Upon reviewing the information in the file, the Tax Commission finds the taxpayers have not provided the Tax Commission with a contrary result to the deficiency notice. Therefore, the Tax Commission upholds the deficiency as asserted.

WHEREFORE, the Notice of Deficiency Determination dated January 12, 2000, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following taxes, penalties, and interest for 1994:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$562	\$28	\$262	\$852

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

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

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2001, 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]_____

ADMINISTRATIVE ASSISTANT 1