

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14868
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On April 17, 2000, the Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the tax years 1991 through 1997 in the total amount of \$17,081.

The taxpayer protested the determination. The taxpayer did not request a hearing, but did provide actual returns for three of the seven years in question. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

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.

Because the Tax Commission's files did not include tax returns from the taxpayer for any of the years, the Bureau prepared Idaho individual income tax returns on the taxpayer's behalf. [Redacted]. The deficiency amount did not consider the taxpayer's husband's wages or any income resulting from his home repair/remodeling business. His income is not a part of this decision.

On August 17, 2000, the Bureau received 1991 and 1992 Idaho individual income tax returns from the taxpayer. On October 23, 2000, the 1993 return was received. All three returns were filed jointly with the taxpayer's husband.

Idaho Code § 63-3031(a) states "A husband and wife may make a single return jointly even though one of the spouses has neither gross income or deductions, . . ." The Bureau did not include the taxpayer's husband in the deficiency determination because the choice of filing a joint tax return belongs to the taxpayer and her husband. The Bureau cannot make the choice for them.

The Bureau notified the taxpayer that the returns were accepted as filed and the portion of the deficiency determination that addressed those years was canceled. The 1991, 1992, and 1993 returns will not be a part of this decision.

The taxpayer asked for additional time to allow her the opportunity to have an accountant prepare the remainder of the delinquent Idaho returns. The Bureau granted the stay. However, when the promised returns did not arrive as promised, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter from the Tax Appeals Specialist that outlined her appeal rights. Nothing further has been received from the taxpayer.

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. Albertsons, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer and her husband did not make a choice to file joint income tax returns for 1994, 1995, 1996, or 1997. The taxpayer has failed to file an Idaho return for any of those years. Therefore, the Tax Commission finds the provisional returns prepared by the Bureau to be accurate reflections of the taxpayer's income and resulting Idaho income tax responsibility for each of those years.

WHEREFORE, the Notice of Deficiency Determination dated April 17, 2000, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1994	\$1,583	\$396	\$737	\$2,716
1995	1,393	348	543	2,284
1996	1,612	403	495	2,510
1997	1,682	421	370	<u>2,473</u>
TOTAL DUE				<u>\$9,983</u>

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 _____, 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]

[Redacted]

ADMINISTRATIVE ASSISTANT 1