

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14990
[Redacted],)	
)	DECISION
Petitioners.)	
)	
)	

On June 12, 2000, the staff of 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 \$1,174 for the year ending December 31, 1993.

[Redacted] filed a timely appeal and petition for redetermination. Neither of the taxpayers requested a hearing. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision based thereon.

Information available to the Bureau indicated the taxpayers were Idaho residents during 1993. Because they did not file resident income tax returns even though they appeared to have filing requirements, the Bureau contacted the taxpayers. However, the taxpayers did not file the return or explain why they should not be required to file.

Idaho Code § 63-3045 states:

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.

Because the taxpayers did not file a 1993 Idaho income tax return, the Bureau prepared a return on their behalf and sent them the deficiency determination, which [Redacted] appealed. She said she and [Redacted] had divorced in 1996. She said during the period in question she was not employed outside the home. She concluded with, "Idaho Tax or IRS took half my husband's ([Redacted]) return and paid [Redacted] tax and mine."

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 provision 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 subject only to modifications in Idaho law. [Redacted].

The deficiency was determined using the income amounts shown in these records. The filing status and number of exemptions used by the Bureau to compute the taxpayers' Idaho income tax responsibility mirrored the federal records.

[Redacted] suggested that her former husband [Redacted] should be responsible for the entire liability because she was a housewife during 1993 and because a portion of a refund due to her and her new husband had already been applied to a tax assessment.

The taxpayers filed their 1993 federal individual income tax return with a filing status of married filing joint. The 1993 Idaho Code § 63-3031(c) stated: "Husbands and wives shall, if they elect to file a joint return for federal purposes, be required to file a joint return for state purposes."

Because the taxpayers chose to file a joint tax return with the IRS, the filing status of married filing joint must be used when determining Idaho income taxes for the same year. Therefore, the state of Idaho has a right to hold the taxpayers jointly and severally liable. One spouse may have a civil cause of action against the other spouse; however, the state remains in a neutral position. Joint and several liabilities simply mean 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 June 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 1993:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$666	\$167	\$366	\$1,199

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