

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15316
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On November 6, 2000, 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 1992 through 1998, in the total amount of \$2,413. In a letter that was written by the taxpayer’s husband on behalf of the taxpayer and himself, the taxpayer protested the determination. She did not request a hearing. The Tax Commission, having reviewed the file, hereby issues its decision.

[Redacted], [Redacted]. [Redacted]. [Redacted].

After several letters and telephone calls without response, the Bureau prepared provisional Idaho income tax returns on the taxpayer's behalf for the years 1992 through 1998 that were based on [Redacted] the records retained by the Tax Commission. Withholding that could be identified in the records available to the Tax Commission was allowed to offset the tax due. The Bureau sent the taxpayer a Notice of Deficiency Determination (NODD). The taxpayer’s husband appealed.

In his protest letter, the taxpayer’s husband said: “After a great deal of thought about a just and equitable resolution, I have come to what I believe a potentially mutually satisfying resolve.” The taxpayer’s husband arrived at each year’s tax amount by using a percentage of the same income used to determine the tax shown in the NODD issued to him and the NODD sent to the taxpayer. The husband allowed credit for the total withholding and added twenty percent for penalty and interest. He enclosed a check in the amount of \$4,134. The taxpayer’s husband stated his opinion that:

Since the variables that might have effected our tax liabilities during this time period, such as filing status, excessive loss or windfalls et. al. have remained effectively unchanged, I believe this demonstrates a fair and equitable resolve.

The Bureau sent a letter back to the taxpayer and her spouse rejecting the offer of a settlement. The Bureau explained the Tax Commission's requirement to follow the federal determination of taxable income. The Bureau asked the taxpayer to file an Idaho income tax return for each of the years at issue [Redacted].

The taxpayer's spouse again wrote to the Bureau. He offered that: "a determination made by the IRS to file audits for [Redacted] and myself as a couple filing separately was for their convenience and not a true or proper reflection of our intent or our history as taxpayers." He said he was involved in completing federal returns showing a status of married filing jointly.

In a letter dated January 26, 2001, the Bureau acknowledged the taxpayer's spouse's letter and the taxpayer's intent to file federal returns. The Bureau asked the taxpayer if she was going to file Idaho returns as well and asked for a time line for the completion of all missing returns. When the taxpayer did not respond, a second letter was sent and the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter that advised her of her appeal rights.

Idaho Code § 63-3002 defines the intent of the legislature when Idaho developed a state income tax:

63-3002. 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;

When the Bureau prepared Idaho income tax returns for the taxpayer, it had little choice but to follow the federal determination that included the taxpayer's filing status. 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, . . ." (emphasis added). Because the taxpayer did not file income tax returns for any of the years at issue, she did not make a choice of filing status. [Redacted].

The taxpayer submitted a letter that detailed what her husband thought would be a fair resolution to Idaho Code § 63-3030, which clearly requires the taxpayer to file an Idaho income tax return each year. Neither the taxpayer nor her husband denies that she has a filing requirement. Neither she nor her husband denies she owes additional Idaho income tax. The taxpayer's husband's computations of Idaho income tax based on average percentages are not accurate. The taxpayer's husband's idea of the proper penalty and interest does not follow the requirements of Idaho Code §§ 63-3045 and 63-3046. The Tax Commission is not persuaded the taxpayer's husband's resolution is appropriate.

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 did not submit Idaho returns for the years 1992 through 1998. Therefore, the Tax Commission finds the provisional returns prepared by the Bureau based on the taxpayer's federal and state income records to be accurate reflections of the taxpayer's income tax, penalty, and interest responsibilities for the years at issue.

WHEREFORE, the Notice of Deficiency Determination dated November 6, 2000, is

APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1992	\$286	\$72	\$202	\$ 560
1993	133	33	80	246
1994	139	35	65	239
1995	237	59	104	400
1996	255	64	90	409
1997	243	61	65	369
1998	200	50	38	<u>288</u>
			TOTAL	\$2,511
			½ of PAYMENT	< 2,067 >
			TOTAL DUE	<u>\$ 444</u>

Interest has been computed through October 1, 2001.

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

An explanation of 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

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