

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17528
[Redacted],)	DECISION
Petitioners.)	
_____)	

On April 29, 2003, the Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing additional individual income tax, penalty, and interest in the amount of \$1,145 for the year ending December 31, 1999.

[Redacted] filed a timely appeal and petition for redetermination. He 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 he protested the determination that he should be held responsible for the taxes due on the unreported annuity income. He asked the Tax Commission to consider him an innocent spouse because he did not derive any benefit from the income.

The Bureau wrote to the taxpayers to acknowledge their protest and advise them of Idaho's law [Redacted]. The taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review.

The taxpayers filed their 1999 Idaho individual income tax return on April 10, 2000 and received a refund of withheld taxes in the amount of \$790[Redacted]. The only adjustment either of the taxpayers objected to was the annuity income. [Redacted] contends he derived no benefit from the money so he should not be held responsible for the taxes owing as a result of the income. He said his wife received the annuity from her mother's estate and he had no knowledge of the amount or that it was taxable income.

He explained the taxpayers separated and divorced shortly after his wife received the inheritance. He emphasized he derived no benefit from the annuity income because the funds were never co-mingled. [Redacted]

The 1999 Idaho Code § 63-3031(b)(3) defined the responsibility of a married couple making the election to file their tax returns with a filing status of married filing joint:

- (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 their tax returns as married filing joint, the State of Idaho holds 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 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 April 29, 2003, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest for 1999:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$893	\$45	\$226	\$1,164

Interest is computed through December 1, 2003.

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 _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2003, 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]