

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17905
[REDACTED])	
Petitioner.)	DECISION
)	
)	

On December 12, 2003, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing additional individual income tax, penalty, and interest in the amount of \$103 for the tax year 2002.

The taxpayer 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]

The [Redacted] resulted in an increase to the amount of income that was reported to Idaho. The Bureau issued a Notice of Deficiency Determination to the taxpayer advising her of additional Idaho income tax, penalty, and interest.

In response to the deficiency notice, the taxpayer sent a letter protesting the determination

[Redacted]. She asked the Bureau to contact the Bureau of Vital Statistics to verify her children's births.

The Bureau sent the taxpayer a letter acknowledging her protest and transferred the taxpayer's file to the Legal/Tax Policy Division and a letter was sent to advise her of her right to request a hearing or send additional information. The taxpayer did not respond.

The taxpayer asked the Tax Commission to verify that she gave birth to the children she claimed as her dependents. However, the fact of the children being the taxpayer's children is not the issue. The portion of time the children lived with the taxpayer in her home as her dependent during 2002 is the issue. To take advantage of the more attractive Head of Household filing status instead of Single and to claim the Earned Income Credit, an unmarried person must have provided a home for a dependent for more than half of the year.

The Tax Commission has reviewed the information provided by the taxpayer and found it to be inconclusive. A federal Form 8862, Information to Claim Earned Income Credit After Disallowance, showed two children lived with the taxpayer at [Redacted], for more than half of 2002 and attended [Redacted]. It appeared to be filled out by the taxpayer but was unsigned.

The form, Qualifying Children Residency Statement, that was signed by the Office Manager of [Redacted] Housing Authority showed the taxpayer and her two children lived at the same [Redacted] address from July ?, through present. Because the form has a question mark instead of a year, it is of little help in confirming the children were with the taxpayer in the home for more than six months during 2002.

It was signed 12-1-03.

A second Qualifying Children Residency Statement that was signed by Secretary, [Redacted]

Elementary, showed the children attended [Redacted] Elementary and lived at the same address shown in the other two forms from August 26, 2002, through December 1, 2003. Again, the Statement does not verify six months of living with the taxpayer during 2002.

[Redacted]

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). Having presented no further information in support of her argument, the taxpayer has failed to meet her burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated December 12, 2003, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following additional tax, penalty, and interest for 2002:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$89	\$10	\$8	\$107

Interest has been computed through December 15, 2004.

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 _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2004, 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]
[REDACTED]

Receipt No.
