

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 18782
[REDACTED]	)	
Petitioner.	)	DECISION
	)	
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On March 9, 2005, the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing Idaho individual income tax, penalty, and interest in the total amount of \$1,704 for tax years 2001, 2002, and 2003.

The taxpayer filed a timely protest and petition for redetermination. She submitted no documents for examination and did not request an informal conference. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

In the taxpayer's protest letter, she said she did not intentionally file her returns incorrectly. She said she changed how she files future tax returns and asked for consideration. In a letter responding to a letter advising her of her appeal rights, the taxpayer wrote that she changed her federal return in 2001 when she was contacted by the Internal Revenue Service but did not amend her state return. She again said that she did not intentionally file her returns incorrectly. She said it would be a hardship to repay any tax or pay penalty and interest.

The taxpayer filed her Idaho income tax returns for the years at issue claiming refunds as follows: \$545 for tax year 2001; \$881 for tax year 2002; and \$448 for tax year 2003. The Bureau's review found the taxpayer had deducted a loss on the sale of a personal residence in both her 2001 and 2003 returns. She was denied that loss in an earlier Tax Commission decision issued June 23, 2003 under docket # 17205. The decision was not appealed and nothing has been submitted to the

Tax Commission that would suggest any of the facts or circumstances changed since the 2003 decision was issued. That portion of the NODD is upheld.

The second issue addressed in the NODD is that of the standard deduction/itemized deduction. For tax year 2001, the taxpayer had used the itemized deduction to reduce her gross income. However, because the casualty loss on the sale of her home is denied, the itemized deduction amount is reduced making it more advantageous for the taxpayer to use the standard deduction. That change to the taxpayer's 2001 Idaho return is appropriate.

The third issue involved income that had been double reported in the taxpayer's 2002 return. Reducing the income reported in the taxpayer's 2002 return is appropriate.

The fourth issue is an operating loss the taxpayer carried forward from her 2001 return to her 2002 return. The elimination of the casualty loss deduction in 2001 eliminates the loss carry forward for 2002. That portion of the NODD is upheld.

Penalty and interest were added pursuant to Idaho Code. Because the issue of using Federal Form 4684, Casualties and Thefts, to claim a loss on the sale of her home had previously been disallowed, delinquency penalty and interest are 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). Having presented no 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 March 9, 2005, 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>
2001	\$167	\$10	\$32	\$ 209
2002	733	37	92	862
2003	573	29	42	<u>644</u>
			TOTAL	<u>\$1,715</u>

Interest is computed through July 1, 2005.

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 \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

### **CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2005, 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]