

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19455
[REDACTED],)	
)	DECISION
Petitioners.)	
<hr style="width: 45%; margin-left: 0;"/>		
)	

On August 3, 2005, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing additional individual income tax, penalty, and interest in the total amount of \$481 for the taxable year 2002.

[Redacted] filed a timely appeal and petition for redetermination. The Tax Commission reviewed the file, is advised of its contents, and hereby issues its decision.

The Bureau received information [Redacted] (IRS) that a change was made to the taxpayers' federal income tax return for the taxable year 2002. The Bureau reviewed the change and determined it was applicable to the taxpayers' Idaho income tax return. The Bureau adjusted the taxpayers' Idaho return and sent them a Notice of Deficiency Determination.

[Redacted] protested the Bureau's determination stating that the [Redacted] relieved her of this liability. She further stated that, in their divorce decree, [Redacted] was ordered to pay all tax debts. [Redacted] provided a copy of the [Redacted] determination as evidence of her release from the obligation.

The Bureau referred the matter for administrative review. Since the taxpayers filed a married filing joint Idaho income tax return, the Tax Commission sent both taxpayers a letter giving them two alternative methods for having the Notice of Deficiency Determination redetermined. Neither taxpayer responded to the Tax Commission's letter. Therefore, the Tax Commission decided the

matter based upon the information available.

Idaho Code section 63-3002 states it is the intent of the Idaho Legislature to make the provisions of the Idaho income tax act identical to the provisions of the Internal Revenue Code relating to the measurement of taxable income, subject only to modifications contained in the Idaho law. It follows then that the intent of the Idaho Legislature is to follow a federal determination of taxable income. The [Redacted] adjusted the taxpayers' [Redacted] return to include income the taxpayers omitted. Therefore, pursuant to the Idaho Code, the Bureau adjusted the taxpayers' Idaho return to agree with the federal determination.

The taxpayers did not disagree with the adjustment made by the Bureau. [Redacted] argued that the [Redacted] relieved her of the responsibility for the additional tax and that her divorce decree ordered all tax debts to be paid by [Redacted].

Idaho Code section 63-3031(b)(3) states:

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.

The taxpayers filed their 2002 Idaho income tax return as married filing joint. Therefore, both taxpayers are responsible for the tax, jointly and severally. At the federal level, [Redacted] apparently provided [Redacted] something that showed she had no knowledge of or benefit from the omitted income, and [Redacted] granted her innocent spouse relief. The Internal Revenue Code has a provision to relieve innocent spouses from tax obligations; the Idaho Code does not.

[Redacted] stated her divorce decree ordered [Redacted] to pay any tax debts, which presumably includes this liability. The divorce may have identified who was responsible for the debts and obligations of the marital community, but it does not change the fact that the taxpayers

filed a joint income tax return for 2002. The taxpayers' subsequent separation and divorce does not affect their 2002 filing. The Tax Commission's ability to collect a deficiency in tax from either taxpayer remains the same.

Since the taxpayers did not provide anything to show the Bureau's adjustment was in error, the Tax Commission must uphold the adjustment to the taxpayers' 2002 return. Furthermore, absent any statutory provision or court ruling, the Tax Commission may collect the deficiency from either or both taxpayers.

Idaho Code section 63-3069 requires taxpayers to immediately send written notice to the Tax Commission upon a final determination of a deficiency in federal tax or be subject to penalty. The taxpayers did not notify the Tax Commission of the federal determination; therefore, the Bureau imposed the five percent penalty provided by that section. The Tax Commission reviewed the penalty and found the addition of the penalty appropriate.

WHEREFORE, the Notice of Deficiency Determination dated August 3, 2005, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$404	\$20	\$87	\$511

An explanation of the taxpayers' right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]
[REDACTED]

Receipt No.

[REDACTED]
[REDACTED]
[REDACTED]
