

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
[REDACTED],) DOCKET NO. 19490
)
) DECISION
Petitioner.)
_____)

On March 21, 2006, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for the taxable year 2001 in the total amount of \$234.

On May 18, 2006, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but stated she would provide the needed information to bring this matter to a close. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that showed the taxpayer received wages that were reportable to Idaho. The Bureau researched the Tax Commission’s records and found that the taxpayer did not file an Idaho individual income tax return for the tax year 2001. The Bureau sent the taxpayer a letter asking about her requirement to file an Idaho income tax return. The taxpayer did not respond so the Bureau obtained additional information [Redacted] and determined the taxpayer was required to file an Idaho return. The Bureau prepared a return for the taxpayer and sent her a Notice of Deficiency Determination.

The taxpayer disagreed with the Bureau’s determination. She stated she filed bankruptcy in 2002, in which her debts were discharged, including taxes.

The Bureau referred the matter for administrative review, and the Tax Commission sent the taxpayer a letter giving her two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. The Tax Commission sent a follow-up letter to the taxpayer to which she responded that she would be willing to provide additional information if she could get some guidance on what to provide. The Tax Commission provided the taxpayer with the information showing that she had income from Idaho sources in excess of Idaho's filing requirements. The taxpayer implied that after receiving the information she would put together the rest of her documentation and either prepare the return or send it all in for the Tax Commission's consideration. However, after several months and a follow-up correspondence, the taxpayer has provided nothing for the Tax Commission to consider. The Tax Commission, believing that the taxpayer has had ample time to provide whatever additional information she wanted considered, hereby issues its decision based upon the information available.

In 2001, the taxpayer received wages that were reported to the Idaho Department of Labor. [Redacted]. Since the taxpayer's wages were from an Idaho source, the taxpayer was required to file an Idaho income tax return reporting those wages as Idaho income.

The taxpayer claimed all her taxes were discharged when she filed bankruptcy in 2002. The Tax Commission found that the taxpayer did file for Chapter 7 bankruptcy relief. However, in a Chapter 7 bankruptcy, the debtor liquidates his assets at a point in time to pay off creditors. Not all debts are dischargeable in a Chapter 7 bankruptcy. Taxes are not dischargeable if the taxes were assessed within three years of the date of the bankruptcy. Moreover, if the debtor has not filed income tax returns, the taxing authority can pursue collection even after the bankruptcy is discharged. See 11 U.S.C. 523(a).

In this case, the taxpayer did not file an Idaho individual income tax return, and no tax was assessed by the Tax Commission. Consequently, the taxpayer was not discharged of any income tax that may have been due the state of Idaho.

The taxpayer stated she would provide additional information for the Tax Commission to consider. The taxpayer failed to provide anything. In Idaho, a State Tax Commission Notice of Deficiency Determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer has not met her burden. Therefore, because of the absence of anything contrary to the return prepared by the Bureau, the Tax Commission upholds the Bureau's determination as a reasonable representation of the taxpayer's taxable income.

The Bureau added penalty and interest to the taxpayer's Idaho tax liability. The Tax Commission reviewed those additions and found them to be in accordance with Idaho Code sections 63-3046 and 63-3045, respectively.

WHEREFORE, the Notice of Deficiency Determination dated March 21, 2006, is hereby 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 | \$ 157 | \$ 38 | \$ 50 | \$ <u>245</u> |

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

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

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, 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]

Receipt No.
