

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20296
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On April 10, 2007, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing additional income tax, penalty, and interest for the taxable year 2004 in the total amount of \$15,689.

On June 12, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer timely filed her 2004 Idaho individual income tax return. [Redacted]. The Bureau reviewed the taxpayer's 2004 Idaho return and found that she did not amend her Idaho return for the federal audit adjustments. The Bureau determined the federal audit adjustments were applicable to the taxpayer's Idaho return and made the corresponding adjustments to the Idaho return. The Bureau added a 5 percent negligence penalty for not notifying the Tax Commission of the federal audit, and it added a 10 percent substantial understatement penalty to the taxpayer's deficiency. The Bureau then sent the taxpayer a Notice of Deficiency Determination which the taxpayer protested.

The taxpayer did not protest the changes made to her Idaho return for the federal audit adjustments; she protested the addition of the penalty. She stated she was unaware that she

needed to file an amended return for Idaho when the federal audit was completed. She asked that the Tax Commission reconsider the addition of the penalty.

The Bureau referred the matter for administrative review. The Tax Commission sent the taxpayer a letter discussing the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not respond to the Tax Commission's letter, so the Tax Commission presumed the taxpayer had nothing further to add and wanted a redetermination on the record as it stood.

Idaho Code section 63-3046(a) provides for the addition of a 5 percent penalty if any part of the deficiency is due to negligence or disregard of the rules. Tax Commission Administration and Enforcement Rule IDAPA 35.02.01.410.02(i) states the negligence penalty is applicable when a taxpayer fails to provide the Tax Commission with a copy of a final federal determination within sixty (60) days of the date of the determination. The taxpayer did not provide the Tax Commission with any notification of a federal audit, let alone a final federal determination. The fact that she was not told she needed to file an amended Idaho return does not relieve her of that responsibility. The taxpayer self-prepared her 2004 income tax returns. Since the Idaho return begins with federal adjusted gross income from the federal income tax return, a reasonable person should know that if a change is made to their federal return that changes their federal adjusted gross income, a corresponding change should be made to their Idaho return. The Tax Commission finds the negligence penalty appropriate.

Tax Commission Administration and Enforcement Rule IDAPA 400.01 states that if a taxpayer becomes liable to pay the Internal Revenue Service a penalty similar to one provided in the Idaho Code, it shall be presumed the penalty is appropriate as part of the state tax deficiency. The Internal Revenue Service applied the penalty of Internal Revenue Code section 6662(e).

This penalty is applied when there is a substantial valuation misstatement in the value or adjusted basis of any property claimed on a return. Idaho does not have a similar penalty. The second penalty the Bureau added was for substantial understatement. Since there is no presumption of appropriateness, the Tax Commission reviewed this penalty and determined under the circumstances the penalty should be waived.

WHEREFORE, the Notice of Deficiency Determination dated April 10, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, 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>
2004	\$12,199	\$ 610	\$2,247	\$15,056

Interest is computed to March 1, 2008.

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.

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]

Receipt No.
