

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

In the Matter of the Protest of )  
 ) DOCKET NO. 19169S  
[REDACTED], )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

On September 21, 2005, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing income tax, penalty, and interest for the taxable year 2003 in the total amount of \$8,318.

A timely protest and petition for redetermination was filed by the petitioner’s representative (representative). An informal hearing has not been requested by the petitioner or her representative. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner failed to file her 2001, 2002, and 2003 individual income tax returns. On July 30, 2004, September 9, 2004, and May 10, 2005, the TDB sent a letter with a questionnaire to the petitioner and the Estate [Redacted] (husband’s estate) to help the Commission properly determine the petitioner’s filing requirement.

On May 16, 2005, the TDB received a completed letter and questionnaire from the petitioner in which she indicated that she was required to file and would file Idaho individual income tax returns for tax years 2001 through 2003. On the questionnaire she indicated that she was a legal resident of Idaho the entire year, lived in Idaho the entire twelve months, and moved to Idaho in September 1972. The petitioner also indicated that the last time she filed a return in the state of Idaho was tax year 2000. On the back side of the questionnaire, the petitioner stated:

I have been unable to complete the tax forms because of illness.

I did file forms for these years that had the basic facts and paid the amounts (thousands) through my CPA

I am currently moving and unable to find any information. I have a mountain of boxes. As soon as I am settled enough so I can eat and sleep, I will put my attention to this matter.

I cannot do all of this in 15 days, but I assure you that I shall be as quick as possible.

In a letter to the petitioner dated August 11, 2005, the Tax Enforcement Specialist (TES) stated that the petitioner had indicated in previous correspondence that she was required to file Idaho tax returns for tax years 2001 through 2003. The TES stated that the TDB had not received the petitioner's returns. The TES stated to the petitioner that if her returns were currently being prepared, to please provide the TDB with an expected date of completion. The TES stated that if the TDB did not begin receiving the petitioner's individual income tax returns with a reasonable schedule for completion of all returns, the TDB would assess the petitioner based on the information available to the Commission. The TES requested the petitioner forward any correspondence to her attention within 15 days from the date of the letter. The TES stated that if the petitioner had questions concerning this matter, to please contact her. The petitioner did not respond to this letter.

[Redacted]. The Commission issued an NOD to the petitioner for tax year 2003 on September 21, 2005, [Redacted].

In the petitioner's protest letter dated November 18, 2005, the representative stated:

This letter is a written protest and petition for redetermination of the Notice of Deficiency Determination dated September 21, 2005 regarding the 2003 Idaho return for the above taxpayer. A copy of your notice is enclosed. A copy of my Power of Attorney is enclosed.

[Redacted]

The TDB sent the representative a letter dated November 21, 2005, which requested he send the petitioner's information for her 2001 and 2003 Idaho individual income tax returns by January 5, 2006. The TES sent the representative copies of all of the petitioner's financial documents that the representative should need to prepare the petitioner's 2001 through 2003 tax returns. The TES also sent the representative the petitioner's estimated payments for 2001 and 2002. The TES stated that it was the TDB's intention to complete the redetermination within the TDB unless the issues involved require legal interpretation. The petitioners file would be transferred to the Commission's legal department if the TDB was unable to reach a mutually acceptable agreement of the issues involved. The representative did not respond to this letter.

On March 11, 2006, the TDB received the petitioner's 2002 individual income tax return.

On August 22, 2006, the petitioner's file was sent to the Commission's Legal/Tax Policy division for further review.

On August 23, 2006, the Tax Policy Specialist (policy specialist) sent the representative a letter to inform him of the alternatives for redetermining a protested NOD.

On July 17, 2007, the policy specialist mailed a letter to the representative which had computer printouts of 1099 income information for the petitioner and her husband's estate for tax years 2001, 2002, and 2003. The petitioner's 2003 individual income tax return has not been filed as of the date of this decision.

It is well settled in Idaho that an NOD issued by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioner to show that the tax deficiency is erroneous. Id. Since the petitioner has failed to meet the burden in this case, the Commission finds that the amount shown due on

the Notice of Deficiency Determination is true and correct.

[Redacted] The petitioner has not provided the Commission with a contrary result to the determination of her income [Redacted] Therefore, the Commission must uphold the deficiency.

WHEREFORE, the Notice of Deficiency Determination dated September 21, 2005, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$6,175	\$1,544	\$1,841	\$9,560

Interest is computed through December 6, 2008, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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 enclosed.

DATED this \_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_ day of \_\_\_\_\_, 2008, 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.

[REDACTED]

\_\_\_\_\_