

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20677
[Redacted],)	
)	DECISION
Petitioner.)	
)	
_____)	

On August 15, 2007, 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 years 2001, 2002, and 2005 in the total amount of \$2,474.

On October 17, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing and did not provide anything further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer and her husband have a prior history with the Tax Commission. The staff of the Tax Commission's [Redacted] office referred the taxpayer as a nonfiler for the tax years 2001, 2002, and 2005. The Tax Discovery Bureau (Bureau) sent the taxpayer and her husband a letter asking about their requirement to file Idaho individual income tax returns for 2001, 2002, and 2005. They did not respond. The Bureau obtained information [Redacted] and determined the taxpayer had a requirement to file Idaho income tax returns for those years. The Bureau prepared returns for the taxpayer and sent her a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. She stated she did not understand how the Bureau could determine she owed tax when her earnings were less than \$3,500 for each of the years. The taxpayer provided copies of three of her pay stubs for 2005 as evidence of her

level of income. The Bureau acknowledged the taxpayer's protest and provided her with the explanation that her taxable income was determined by the community property laws of the state of Idaho. The Bureau gave the taxpayer an opportunity to provide her income tax returns, but the taxpayer failed to submit anything. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the case and sent the taxpayer a letter discussing the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not respond, so the Tax Commission sent a follow-up letter. The taxpayer stated that she did not understand how she could be taxed on a business she does not run or have any decision making authority. She stated the business is her husband's and he runs it as he sees fit. The taxpayer stated she did not see the fairness of being taxed on her husband's business.

Idaho is a community property state. (See Idaho Code section 32-906.) As such, any income earned by either husband or wife is community income. This is the general rule and, as always, there are exceptions to the general rule, but those exceptions do not apply in this case. For income tax purposes, if a married couple elects to file a married filing joint income tax return, all the income of the community is included on their return. However, as in this case, the taxpayer and her spouse did not file Idaho individual income tax returns and did not make the election to file as married filing joint. Therefore, when the Bureau prepared income tax returns for the taxpayer, it had to prepare the returns as married filing separate. In a community property state, married individuals that file married filing separate income tax returns are required to equally split their community income and deductions. In this case, the taxpayer is required to report half of her income and half of the income from her husband's business. Likewise, the taxpayer's husband is required to report half of his income and half of the taxpayer's income.

In her letter to the Tax Commission, the taxpayer essentially conceded the matter. She stated she believed she would be assessed the tax regardless and that whatever amount the Tax Commission determined she owed her husband would be paying it anyway. It is unfortunate the taxpayer does not understand the effects of the community property laws on the income of married individuals. Nevertheless, the law is clear, and the taxpayer is responsible for half of her husband's business income.

WHEREFORE, the Notice of Deficiency Determination dated August 15, 2007, 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	\$ 288	\$ 72	\$ 109	\$ 469
2002	629	157	198	984
2005	786	197	112	<u>1,095</u>
			TOTAL DUE	<u>\$2,548</u>

Interest is computed to June 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 _____, 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.
