

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

In the Matter of the Protest of )  
 ) DOCKET NO. 18924  
[REDACTED], )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

On May 19, 2005, 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 2000 through 2003 in the total amount of \$388,190.

On July 20, 2005, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer decided a hearing was not necessary because she would be providing income tax returns that should clear up the matter. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that showed the taxpayer received miscellaneous income in 2002. The Bureau reviewed the Tax Commission's records and found that the taxpayer had not filed Idaho individual income tax returns since at least 2000. The Bureau sent the taxpayer a letter asking about her requirement to file Idaho income tax returns for the taxable years 2000 through 2003. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer was required to file Idaho income tax returns for all the years in question. The Bureau prepared income tax returns for the taxpayer and sent her a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination stating she did not owe the tax asserted. She stated she was recovering all the information needed to prepare and file her

returns. The taxpayer stated the Bureau only had half the picture on all the stock and real estate transactions. The taxpayer stated she would address the specifics of the transactions when she retrieves the information and files her returns. The taxpayer asked for additional time to get all her information together and to have an accountant prepare her income tax returns.

The Bureau acknowledged the taxpayer's protest and allowed the taxpayer the additional time she requested to provide her income tax returns. When the taxpayer failed to provide her returns, the Bureau contacted her again. The taxpayer responded that her accountant was out of town and that she underestimated the amount of documents she needed to properly prepare her returns. The taxpayer asked for an additional extension of time to complete at least her 2000 tax year return. The Bureau granted the taxpayer the extended time; however, when the taxpayer again failed to provide her returns, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer responded saying she would like a hearing so that she could submit additional information, specifically her completed Idaho income tax returns. The taxpayer stated her accountant was working on the years in question and she expected them to be completed by February 16, 2006. Once again the taxpayer stated that she was confident that her returns would show a very small tax liability; nothing like the large sum the Bureau calculated. The Tax Commission contacted the taxpayer and told her that the submission of her returns would be sufficient to counter the returns prepared by the Bureau. However, if she felt the need for a hearing, one could be scheduled.

The next contact from the taxpayer was on February 17, 2006. She agreed that a hearing would probably not be necessary and she apologized for not having her returns completed by the February 16, 2006, deadline. The taxpayer stated she was having difficulty getting all the

documents needed to complete her returns. She estimated that she could have her returns done within three to four weeks.

The Tax Commission allowed the additional time, but still no returns were provided by the taxpayer. The Tax Commission contacted the taxpayer several more times, and each time, the taxpayer stated she needed more time. At some point, the taxpayer's ex-spouse became involved. Nevertheless, the taxpayer still failed to provide her income tax returns. The Tax Commission gave the taxpayer specific deadlines to show that work was being done on the preparation of her returns. The taxpayer, through her ex-spouse, did show that she was progressing to a point; however, no returns were provided. Therefore, the Tax Commission deemed it necessary to give the taxpayer a final deadline to provide her returns. The taxpayer did not meet that deadline, but a couple of weeks later, the taxpayer's ex-spouse hand delivered the taxpayer's 2000 tax return. The taxpayer's ex-spouse also stated the remaining returns would be completed and to the Tax Commission within four weeks.

The Tax Commission postponed further action until after the four week period passed. Needless to say, the Tax Commission did not receive the taxpayer's other years' returns. Therefore, the Tax Commission, believing the taxpayer has had more than enough time to prepare and submit her Idaho individual income tax returns, decided the matter based upon the information available.

The taxpayer never contended she was not required to file Idaho income tax returns for the years in question. Therefore, based upon the income information obtained by the Bureau and the taxpayer's lack of contention, the Tax Commission finds that the taxpayer was required to file Idaho income tax returns for the tax years 2000 through 2003. The taxpayer's argument was that the Bureau's determination is incorrect. She stated the Bureau did not account for the full

transaction on the sale of stocks and property and that she would provide the correct income tax returns.

The taxpayer did eventually provide a return for the tax year 2000. The Tax Commission reviewed that return and found it to be a better representation of the taxpayer's taxable income for 2000. Therefore, the Tax Commission accepts the taxpayer's 2000 return, subject to the Tax Commission's normal review process, in lieu of the 2000 return prepared by the Bureau.

The taxpayer's 2000 income tax return resulted in a refund. However, Idaho Code section 63-3072 provides the statute of limitations for crediting or issuing refunds on Idaho income tax returns. It states a claim for credit or refund must be made within three years from the due date of the return required to be filed. The taxpayer's 2000 return was submitted well beyond the three-year statute for claiming a refund. Therefore, the Tax Commission cannot allow a refund or credit of the amount claimed.

As for the tax years 2001 through 2003 the taxpayer did not provide any returns. The taxpayer also failed to show that the 2001 through 2003 returns prepared by the Bureau are incorrect. In Idaho, a State Tax Commission 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 did not meet her burden of proof with regard to the 2001 through 2003 tax years. The taxpayer stated that the Bureau did not account for both sides of the stock and property transactions, thus making her income extremely overstated. However, it is the taxpayer's responsibility, and the burden rests upon her to disclose her receipts and claim her proper deductions. United States v. Ballard, 535 F.2d 400 (1976). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is

allowed and that taxpayer must bear her misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Since the taxpayer failed to meet this burden, the Tax Commission finds the income tax returns for the taxable years 2001 through 2003, prepared by the Bureau, are a reasonable representation of the taxpayer's Idaho taxable income. Therefore, the Tax Commission upholds the Bureau's determination for the taxable years 2001 through 2003.

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

WHEREFORE, the Notice of Deficiency Determination dated May 19, 2005, 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 (computed to April 1, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$ 0	\$ 0	\$ 0	\$ 0
2001	26,745	6,686	11,562	44,993
2002	20,089	5,022	7,395	32,506
2003	14,749	3,687	4,649	<u>23,085</u>
			TOTAL DUE	<u>\$100,584</u>

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 \_\_\_\_\_, 2009.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, 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]

---