

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

In the Matter of the Protest of )  
 )  
[REDACTED] ) DOCKET NO. 21433  
 )  
Petitioner. ) DECISION  
 )  
 )  
\_\_\_\_\_ )

On July 10, 2008, 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 2004 and 2006 in the total amount of \$2,900.

On September 11, 2008, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission’s hearing rights letter and have provided nothing further for the Tax Commission to consider. 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 for the taxable year 2004. The Bureau reviewed the Tax Commission’s records and found that the taxpayer did not file Idaho individual income tax returns for 2004 or 2006. The Bureau sent the taxpayer a letter asking about her requirement to file Idaho income tax returns. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer was required to file Idaho income tax returns. The Bureau prepared returns for the taxpayer and sent her a Notice of Deficiency Determination.

The taxpayer protested the Bureau’s determination. She stated that the tax owed to the state of Idaho was a mistake. She stated she was employed full time by a local company and was

sure her taxes were being processed by her employer. The taxpayer stated she would go through her records, most of which were destroyed when her septic tank backed up, to see if she could resolve this oversight.

The Bureau acknowledged the taxpayer's protest and allowed her additional time to provide any additional information. The taxpayer did find and submit a copy of her 2004 federal income tax return and copies of her 2004 and 2006 W-2 Wage and Tax Statements. The Bureau reviewed the information and determined the 2004 return it prepared needed to be corrected to allow for the taxpayer's withholdings. The Bureau did not make any changes to the 2006 return because the taxpayer's W-2 for 2006 reported withholdings paid to California. The Bureau notified the taxpayer of the change made to the 2004 return and advised the taxpayer to submit a return for 2006 showing a credit for taxes paid to California. The taxpayer did not respond to the Bureau's letter, so the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter discussing the methods available for redetermining a Notice of Deficiency Determination. The taxpayer did not respond. The Tax Commission sent a follow-up letter to the taxpayer, but still the taxpayer failed to respond. Therefore, the Tax Commission issues its decision based upon the information available.

The taxpayer stated she was employed with a local company in 2004. She stated that in 2006 she was employed by a California company but worked out of her home in Idaho. The taxpayer stated she resided in Idaho in 2006. The taxpayer stated she assumed her employer made the correct withholdings when they withheld taxes for California, but since she has never used an accountant to prepare her returns, she now is not sure.

Idaho Code section 63-3002 states the intent of the Idaho Income Tax Act to impose a tax on residents of this state measured by their income from all sources. Since the taxpayer was a

resident of Idaho in both 2004 and 2006, she was required to file an income tax return reporting her income from all sources. If the taxpayer was required to file a California income tax return, she would be entitled, as a resident of Idaho, to a credit for taxes paid to California on any double taxed income.

In Idaho, it is well established that a State Tax Commission notice of deficiency is presumed to be correct, and the taxpayer bears the burden of showing 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); Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The Bureau used information obtained [Redacted] to determine the taxpayer's taxable income. The taxpayer did not provide any information to show that her Idaho taxable income was incorrect. However, the taxpayer did provide information that was not available to the Bureau when it prepared her income tax returns; her W-2 withholdings. That information was later incorporated into the Bureau's computation of the taxpayer's Idaho tax liability.

Since the taxpayer failed to show error in the Bureau's determination of her Idaho taxable income, she did not meet her burden of proof. The Tax Commission reviewed the modified returns prepared by the Bureau and found them to be an accurate representation of the taxpayer's Idaho taxable income. Therefore, the Tax Commission upholds the Bureau's determination as modified.

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

WHEREFORE, the Notice of Deficiency Determination dated July 10, 2008, 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 (interest computed to December 18, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$ 252	\$ 63	\$ 73	\$ 388
2006	337	84	57	<u>478</u>
			TOTAL DUE	<u>\$ 866</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 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.  
  
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