

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21726
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On April 17, 2008, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable year 2005 in the total amount of \$3,688.

A timely protest and petition for redetermination was filed by the petitioner. The petitioner has not requested a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner was issued an NOD by the Commission [Redacted]. [Redacted] The TDB, therefore, issued an NOD based on that information and adjusted the petitioner's Idaho return. The Commission finds that the TDB correctly recomputed the petitioner's tax liability [Redacted].

The petitioner protested the NOD by sending an amended 2005 income tax return, which the Commission received on May 15, 2008. The amended 2005 return included a Form 1040X and a Schedule D. On the Schedule D, the columns for date acquired, date sold, and cost/basis were left blank.

The TDB sent the petitioner a letter dated August 26, 2008, which stated that the TDB would retain the petitioner's file while they awaited an [Redacted] account status update to be provided by the petitioner. The TDB requested the petitioner to provide a status update by October 30, 2008. The petitioner did not respond to this letter. If the petitioner's issues could not be resolved in the

TDB, her file would be transferred to the Commission's Legal/Tax Policy division for further review.

On December 15, 2008, the TDB sent the petitioner a letter that stated they had not received any further information from the petitioner in regard to her protest. The TDB stated that they had checked the [Redacted] website and it looked as though the [Redacted] had received some form of an amended return for 2005 but no changes had been made to the amount due. To the state of Idaho, this meant that all of the tax, penalty, and interest in the NOD was still due. The TDB requested that the petitioner provide documentation to support her position if she felt that an error had been made.

The petitioner's [Redacted] printed on February 10, 2009, showed that the [Redacted] did not accept the petitioner's 2005 Form 1040X with its incomplete Schedule D.

On March 2, 2009, the tax policy specialist (policy specialist) sent the petitioner a letter to inform her of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioner on April 17, 2009. The petitioner did not respond to either letter.

Idaho Code § 63-3002 states that it is the intent of the Idaho Legislature, insofar as possible, to make the Idaho Income Tax Code identical to the Internal Revenue Code in the way taxable income is determined. Idaho Code § 63-3069 states that, upon a final determination of any deficiency or refund of federal taxes, written notice shall be immediately sent to the State Tax Commission by a taxpayer. IDAPA 35.01.01 Income Tax Administrative Rule 890.03 states that immediate written notification is required within 60 days of the final determination.

From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho Legislature intended any changes made to the petitioner's federal return must be made to the petitioner's state return.

The petitioner has the burden of proving the adjustments were incorrect. The petitioner

would like the Commission to re-audit [Redacted]. The Commission's position is that the petitioner must be granted relief at the federal level before relief can be granted at the state level.

The petitioner has failed to carry the burden in this matter.

Since the petitioner has not provided the Commission with a contrary result [Redacted], the Commission must uphold the deficiency as asserted.

WHEREFORE, the Notice of Deficiency Determination dated April 17, 2008, 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>
2005	\$3,085	\$154	\$709	\$3,948

Interest is calculated through December 10, 2009, 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 _____, 2009.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this ____ day of _____, 2009, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.