

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21782
[Redacted],)	
)	DECISION
Petitioners.)	
)	
)	
)	
)	

[Redacted] protested the Notice of Deficiency Determination dated January 7, 2009, asserting additional tax, penalty, and interest in the total amount of \$1,112 for 2005. A timely protest was filed by [Redacted] and he did not request a hearing.

The petitioners were issued a Notice of Deficiency Determination based upon an Internal Revenue Service redetermination of the petitioners' income. Mr. [Redacted] does not contest the accuracy of the adjustment made by the auditor. He does, however, object to the liability being asserted against him as opposed to being asserted against his former wife [Redacted].

Mr. [Redacted] contends his former wife received the funds in question. He contends that an Idaho court determined that the liability here in question should be solely the responsibility of his former wife. In support of this, Mr. [Redacted] submitted an ORDER of JUDGMENT which stated, in part:

Respondent [Redacted] will solely bear any remaining tax liability associated with the 2005 Idaho State Income Taxes which is associated with distributions received by Respondent from her two IRA [individual retirement accounts]. The 2005 Idaho State tax liability is estimated to be approximately \$893. Respondent shall also solely bear any penalties, fines, fees, or interest associated with the aforementioned state tax liability. Respondent shall pay the back taxes, fines, interest, and penalties or otherwise resolve the issue of her back taxes with the state within a reasonable time after the entry of this order.

Idaho Code § 63-3031 sets forth authority regarding joint returns. It stated in pertinent part:

If a joint return is made, the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

Pursuant to the petitioners filing a joint return, the state of Idaho had the right to hold the petitioners jointly and severally liable. The state of Idaho did not subsequently surrender any of those rights. One spouse may have a cause of action against the other if they are caused to pay an amount to the state of Idaho contrary to an agreement between the parties to the return. However, the state remains in a position to hold the spouses jointly and severally liable. Joint and several liability simply means the state may collect any portion of the liability up to the entire amount from either spouse.

WHEREFORE, Notice of Deficiency Determination dated January 7, 2009, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest (computed to September 30, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$895	\$45	\$197	\$1,137

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' 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]
[Redacted]

Receipt No.

Receipt No.
