

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19580
[Redacted])	
)	DECISION
Petitioner.)	
_____)	

On June 14, 2006, 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 taxable years 2001 through 2004 in the total amount of \$8,138.

On August 16, 2006, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but wanted to provide income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that the taxpayer may have had a filing requirement with the state of Idaho for taxable years 2001 through 2004. The Bureau searched the Tax Commission's records and found the taxpayer stopped filing Idaho individual income tax returns after filing his 2000 income tax return. The Bureau sent the taxpayer a letter asking about his requirement to file Idaho income tax returns for taxable years 2001 through 2004. The taxpayer responded that he was required to file income tax returns for those years and that he would be preparing them to submit to the Tax Commission.

The Bureau allowed the taxpayer time to provide his returns, but when nothing was received, the Bureau obtained information [Redacted], prepared returns for the taxpayer, and sent the taxpayer a Notice of Deficiency Determination. The taxpayer protested the Bureau's

determination of his Idaho tax liability. The taxpayer stated the filing status was wrong and that he would file his factual returns by September 15, 2006.

The Bureau allowed the taxpayer the time he requested to file his income tax returns. However, when the taxpayer failed to provide the needed returns, the Bureau forwarded the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not personally contact the Tax Commission, but his case was addressed by his ex-wife in completing her Idaho income tax returns for the same years. The taxpayer stated in his letter responding to the Bureau that he was married during those years and would be filing a married filing joint income tax return. The Tax Commission worked with the taxpayer's ex-wife over the next couple of years and received married filing joint returns for taxable years 2002, 2003, and 2004. The taxpayer also filed all the current years' filings.

The Tax Commission reviewed the taxpayer's 2002, 2003, and 2004 Idaho income tax returns and decided there were entries on the returns that needed verification. The taxpayer provided the documentation in support of the claimed deductions and expenses. An auditor of the Tax Commission reviewed the taxpayer's documentation and recommended changes to the taxpayer's returns. The auditor's changes were discussed with the taxpayer's ex-wife and she agreed to the changes. Therefore, the Tax Commission hereby accepts the taxpayer's 2002, 2003, and 2004 Idaho income tax returns as adjusted in lieu of the returns prepared by the Bureau.

As for taxable year 2001, the taxpayer did not provide a return for consideration. In Idaho, it is well established that 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 failed to carry his burden with respect to taxable year 2001. The Tax Commission reviewed the return the Bureau prepared and, based upon the information available, finds the Bureau's return is a reasonably accurate representation of the taxpayer's Idaho taxable income. Therefore, the Tax Commission upholds the Bureau's determination for taxable year 2001.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046 for taxable years 2001, 2003, and 2004 tax.

The taxpayer's 2002 return resulted in a refund to the taxpayer. However, Idaho Code section 63-3072 states that a claim for credit or refund must be made within three years of the due date of the return for a credit to be credited or a refund to be issued. The taxpayer's claim for refund for taxable year 2002 was submitted well beyond the three-year period of limitations; therefore, the Tax Commission cannot allow the refund claimed on the 2002 return.

WHEREFORE, the Notice of Deficiency Determination dated June 14, 2006, 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:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$ 875	\$ 219	\$ 429	\$ 1,523
2002	0	0	0	0
2003	377	94	72	543
2004	263	66	34	<u>363</u>
			TOTAL DUE	\$ 2,429
			LESS PAYMENT	<u>906 *</u>
			BALANCE DUE	<u>\$ 1,523</u>

* The 2001 return was prepared as married filing separate, and the 2002 through 2004 returns were filed as married filing joint. Payment was made by the taxpayer's ex-wife on the married filing joint returns.

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 _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2010, 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.
