

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 21294
[Redacted],)
)
)
Petitioner.) DECISION
)
_____)

[Redacted] (petitioner) protests the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated May 2, 2008, asserting additional liability for Idaho income tax, penalty, and interest in the total amount of \$6,264, \$4,407, \$15,830, \$20,706, and \$16,269 for 2002, 2003, 2004, 2005, and 2006, respectively.

The petitioner was a nonresident of Idaho during the periods in question. She had Idaho source income from a number of different sources, including several pass-through entities operating exclusively in Idaho, income from an Idaho resident trust, and income from wages. The petitioner did not file Idaho income tax returns for the years in question.

The auditor collected information from the various sources to determine the amount of income that was attributable to Idaho. The auditor computed the liability and issued the Notice of Deficiency Determination referred to above.

During the pendency of this administrative appeal, Idaho Code § 63-3026A which sets forth the definition of Idaho source income for nonresidents was changed by House Bill 471 so as not to include as Idaho source income (under the facts present in this case) the income from publicly traded securities of a certain Idaho resident trust for 2002, 2003, and 2004. The petitioner also submitted evidence that the wages in question were not for services performed in Idaho. A deduction for a carryforward of a deduction pursuant to Internal Revenue Code § 179 was allowed in the amount of \$831 for 2002. A portion of the moving expenses incurred by the petitioner were

allowed for 2002. A capital loss in the amount of \$22,093 passing through from an S corporation should have been allowed to the petitioner (with a portion of this loss being carried over to 2003) but was not reflected in the Notice of Deficiency Determination.

For 2004, a math error in the audit report (in the amount of \$6,518) was corrected, thereby reducing the Idaho taxable income.

For 2005, the amount of Idaho capital gain included in the computation of the available Idaho capital gains deduction was understated by \$21,724 in the original audit report.

The adjustments reflected above need to be made to the amounts originally asserted by the auditor. Therefore, the Notice of Deficiency Determination must be modified to reflect these changes.

WHEREFORE, the Notice of Deficiency Determination dated May 2, 2008, is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty, and interest (computed to November 30, 2010):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$ 3,451	\$ 863	\$1,558	\$ 5,872
2003	145	36	58	239
2003	3,979	995	1,347	6,321
2005	11,540	2,885	3,215	17,640
2006	11,374	2,844	2,455	<u>16,673</u>
				<u>\$46,745</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 _____ 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.