

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22315
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On August 12, 2009, the Idaho State Tax Commission’s (Commission) Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination to [Redacted] (petitioners) proposing additional income tax and interest for taxable year 2005 in the total amount of \$414. Only [Redacted] (petitioner) filed a timely protest and petition for redetermination. The petitioner did not request an Idaho Code section 63-3045(2) hearing. The Tax Commission, having reviewed the file, hereby issues its decision.

[Redacted].

The petitioner does not contest the accuracy of the adjustment made by the TDB. She does, however, object to the liability being asserted against her since an Idaho court determined that the liability here in question should be solely the responsibility of her former husband. In support of this, the petitioner submitted a JUDGEMENT AND DECREE OF DIVORCE order which stated, in part:

5. That Plaintiff [the husband] is responsible for the community obligations as previously divided between the parties. In addition, Plaintiff [the husband] shall be solely responsible for the 2005 Idaho State Tax Commission liability;

Idaho Code § 63-3031 sets forth authority regarding joint returns. It states 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.

Interest was included in the NODD in accordance with Idaho Code section 63-3045(6), as was the Idaho Code section 63-3046(a) 5 percent negligence penalty for failure to immediately send written notice to the Commission of the final determination of the petitioners' federal tax as required by Idaho Code section 63-3069.

WHEREFORE, the Notice of Deficiency Determination dated August 12, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED, and THIS DOES ORDER, that the petitioners pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$325	\$16	\$84	\$425

Interest is calculated through June 30, 2010, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6)(c).

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

An explanation of the taxpayers' 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.