

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22793
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (taxpayer) protested the Notice of Deficiency Determination dated February 10, 2010, asserting income tax, penalty, and interest in the total amount of \$1,896 for taxable years 2005 through 2008. The taxpayer disagreed with the Tax Discovery Bureau’s (Bureau) determination of her Idaho taxable income for each of the years. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Bureau received information [Redacted] that showed the taxpayer received wages in excess of the filing threshold amount provided in Idaho Code section 63-3030. The Bureau reviewed the Tax Commission’s records and found that the taxpayer did not file Idaho individual income tax returns for taxable years 2005 through 2008. The Bureau sent the taxpayer a letter asking about her requirement to file Idaho income tax returns. The taxpayer did not respond, so the Bureau obtained additional information [Redacted], prepared income tax returns for the taxpayer, and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer protested the Bureau’s determination. She stated the Bureau’s returns were incorrect because they did not accurately show her filing information. The taxpayer asked for additional time to prepare and submit her income tax returns. The Bureau allowed the taxpayer the time she requested but no returns were received. Therefore, the Bureau referred 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 respond, so the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

The taxpayer received wages in each of the years in excess of the filing requirements for Idaho residents as stated in Idaho Code section 63-3030. Therefore, the taxpayer was required to file an Idaho individual income tax return.

The returns the Bureau prepared for the taxpayer were as a single individual reporting all the income the taxpayer received during each taxable year. The taxpayer did not dispute that she was required to file Idaho individual income tax returns. She disputed the information used by the Bureau to prepare her income tax returns.

The taxpayer stated as part of her reason for not timely filing her income tax returns was that she was caring for her disabled husband. Considering this, the Tax Commission looked back in its records and other information and found that the taxpayer was married as early as 1994. She filed joint income tax returns [Redacted] up to taxable year 1999. For taxable year 2000, the Tax Commission stepped in and prepared a married filing separate income tax return for the taxpayer. Therefore, considering the taxpayer's statement in April 2010 of caring for her disabled husband, the Tax Commission finds the taxpayer's Idaho individual income tax returns for 2005 through 2008 should be filed as married filing separate.

Since the taxpayer was married throughout the years in question, the taxpayer's income tax returns should reflect a community property split of income for those years. Therefore, the Tax Commission obtained information on the income received by [Redacted] and added it to the

income information of the taxpayer. The income earned in each year was then divided between the taxpayer and [Redacted] half to the taxpayer and half to [Redacted]. All withholdings were divided equally as well. The resulting taxable income yielded refunds for taxable years 2005 and 2006 and a small tax due for taxable years 2007 and 2008.

Idaho Code section 63-3072 states that for a refund to be credited or issued, a claim for refund must be made within three years of the due date of the return. The taxpayer's 2005 and 2006 returns had due dates of April 15, 2006, and April 15, 2007, respectively. Generally, the statute of limitations for receiving a refund for those taxable years would have lapsed. However, for taxable year 2006, the period of limitations is still open because the Notice of Deficiency Determination was issued within the period of limitations, and since the taxpayer protested the Notice of Deficiency Determination, the statute of limitations for taxable year 2006 was suspended. Therefore, the taxpayer is entitled to the refund shown on the revised 2006 Idaho individual income tax return but not the refund for taxable year 2005.

CONCLUSION

The taxpayers' earned income exceeded the threshold for the requirement to file Idaho individual income tax returns. Since the taxpayer was married throughout the period, the correct filing status of the taxpayer for the years in question was married filing separate with her income determined by Idaho's community property laws. Therefore, the Tax Commission upholds the Bureau's determination that the taxpayer was required to file Idaho income tax returns for 2005, 2006, 2007, and 2008. However, the Bureau's returns are modified as previously stated.

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

THEREFORE, the Notice of Deficiency Determination dated February 10, 2010, and directed to [Redacted] is AFFIRMED AS MODIFIED by this decision.

IT IS ORDERED 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>
2005	\$ 0	\$ 0	\$ 0	\$ 0
2006	(58)	0	0	(58)
2007	177	44	32	253
2008	29	10	3	42
			BALANCE DUE	<u>\$237</u>

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 _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2011, 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.
