

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22855
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On April 22, 2010, the Income Tax Audit Division (ITA) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable year 2008 in the total amount of \$456.

A timely protest and petition for redetermination was filed by the petitioner. The petitioner has not requested a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The petitioner was issued an NOD by the Commission [Redacted]. [Redacted] The ITA, therefore, issued an NOD based on that information and adjusted the petitioner's Idaho income tax return. The Commission finds that the ITA correctly recomputed the petitioner's tax liability [Redacted].

In the petitioner's protest letter received April 28, 2010, [Redacted] stated he was writing the ITA in regard to the NOD papers he received on April 26, 2010. [Redacted] stated that this had to do with his 2008 taxes. [Redacted] stated he did not agree with this determination that stated he owed \$456 to the Commission. [Redacted] stated he never filed his 2008 taxes [Redacted] that he was incarcerated [Redacted] at the time. [Redacted] stated that his ex-wife, [Redacted] received his W2 forms from his employers. [Redacted] stated his ex-wife e-filed his taxes without his permission nor did he even know about it until he was out of jail. [Redacted]

stated that, therefore, she forged his state income tax returns. [Redacted] stated he never received a check or money from anyone and now he was going through the legal process with his [Redacted] taxes because she forged them too. [Redacted] stated he had proof he did not file his taxes. [Redacted] stated he was sending a paper showing ITA he was incarcerated. [Redacted] stated he did not live [Redacted] he lived [Redacted].

The ITA sent the petitioner a letter dated May 4, 2010, which stated in part

Please provide me with a copy of the police report filed by you alleging misappropriation of your refunds by your ex spouse through the filing of questionable tax returns for tax year 2008 with the state of Idaho and internal revenue service.

Your file will be retained in the audit section until June 4, 2010. If you have not contacted me in writing or provided me with the requested documentation by then, the file will be sent to our legal section for continuation of the appeals process.

On July 27, 2010, the tax policy specialist (policy specialist) sent the petitioner a letter to inform him of the alternatives for redetermining a protested NOD. A follow-up letter was sent to the petitioner on October 8, 2010.

On December 9, 2010, the policy specialist sent the petitioner a letter which stated:

[Redacted]

On July 11, 2011, the policy specialist sent the petitioner a letter to verify statements made in his protest letter. The policy specialist stated, in part:

[Redacted] Idaho Code § 63-3002 states that it is the intent of the Idaho Legislature, insofar as possible, to make the Idaho Income Tax Code identical to the Internal Revenue Code in the way taxable income is determined. Idaho Code § 63-3069 states that, upon a final determination of any deficiency or refund of federal taxes, written notice shall be immediately sent to the State Tax Commission by a taxpayer. IDAPA 35.01.01 Income Tax Administrative Rule 890.03 states that immediate written notification is required within 60 days of the final determination.

From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho Legislature intended any changes made to a taxpayer's federal return to be reflected on the taxpayer's Idaho return. Therefore, it is the Commission's position that the changes made to the petitioner's federal return must be made to the petitioner's state return.

The petitioner has the burden of proving the adjustments were incorrect. The petitioner would like the Commission to re-audit [Redacted]. The Commission's position is that the petitioner must be granted relief at the federal level before relief can be granted at the state level. The petitioner has failed to carry the burden in this matter.

Since the petitioner has not provided the Commission with a contrary result [Redacted], the Commission must uphold the deficiency as asserted.

THEREFORE, the Notice of Deficiency Determination dated April 22, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$410	\$21	\$51	\$482

Interest is calculated through December 17, 2011, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

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 _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this ____ day of _____ 2011, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
