

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23345
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (taxpayer) protested the Notice of Deficiency Determination dated January 20, 2010, asserting income tax, penalty, and interest in the total amount of \$646 for taxable year 2005. The taxpayer disagreed with the income tax return the Tax Discovery Bureau (Bureau) prepared for him for taxable year 2005. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Bureau received information [Redacted] that showed the taxpayer received wages from an employer in 2005. The Bureau reviewed the Tax Commission’s records and found that the taxpayer failed to file an Idaho individual income tax return for taxable year 2005. The Bureau sent the taxpayer a letter asking about his requirement to file an Idaho income tax return. The taxpayer failed to respond. The Bureau determined the taxpayer was required to file an Idaho income tax return, so it prepared an income tax return for the taxpayer. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested.

The taxpayer stated he was going through a divorce at the end of 2005 and he thought he had signed a return for that year. The taxpayer stated the Bureau’s return had several errors. He stated his filing status was head of household rather than married filing separate and he had a dependent exemption for his daughter, [Redacted]. Through continued correspondence with the Bureau, the taxpayer stated he would submit an actual income tax return. The Bureau allowed

the taxpayer additional time to submit his 2005 return, but a return was never provided. 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 [Redacted] in excess of the filing requirements for an Idaho resident as stated in Idaho Code section 63-3030. Therefore, the taxpayer was required to file an Idaho income tax return.

The return the Bureau prepared for the taxpayer included income earned by the taxpayer's ex-wife. The Bureau combined their income and allocated half to each as provided in Idaho's community property laws. The taxpayer's filing status was married filing separate with only one exemption; his personal exemption.

The taxpayer did not dispute the amount of income the Bureau attributed to him; however, he did dispute his filing status and the number of exemptions. From the information available, the Bureau's determination of the taxpayer's filing status appears to be the correct filing status. The taxpayer stated he was going through a divorce at the end of 2005 and that he recalled signing something he thought was an income tax return for 2005. If the taxpayer was signing what he thought was an income tax return, it is likely he was still married at the end of 2005. If the taxpayer was still married at the end of 2005, his filing was either married filing joint or married filing separate. Since the married filing joint filing status is an election made by the taxpayers, the correct filing status for the Bureau prepared return was married filing separate.

The taxpayer also disputed the number of exemptions the Bureau allowed him. The taxpayer stated he could claim a dependent exemption deduction for his daughter. Deductions are a matter of legislative grace, and taxpayers bears the burden of proving they are entitled to the deductions claimed. INDOPCO, Inc. v. Commissioner, 503 U.S. 79, 84, 112 S. Ct. 1039, 117 L.Ed.2d 226 (1992); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, 54 S. Ct. 788, 78 L. Ed. 1348 (1934). The taxpayer did not substantiate his claim, and there is nothing in the Tax Commission's records that would indicate the taxpayer could claim the dependent exemption deduction [Redacted].

In Idaho, 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 provided nothing to show the return prepared by the Bureau for 2005 was incorrect. He has not met his burden of proof.

CONCLUSION

The taxpayer's earned income exceeded the requirement to file an Idaho individual income tax return. The taxpayer did not show that the return prepared by the Bureau was incorrect. Therefore, the Tax Commission upholds the Bureau's determination that the taxpayer was required to file an Idaho income tax return for 2005, and its determination of the taxpayer's Idaho taxable income.

The Bureau added interest and penalty to the taxpayer's 2005 tax deficiency. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated January 20, 2010, and directed to [Redacted] is AFFIRMED.

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	\$433	\$108	\$135	\$676

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.
