

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23630
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On November 1, 2010, the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing additional individual income tax, penalty, and interest in the total amount of \$4,193 for taxable year 2006.

[Redacted] filed a timely appeal and petition for redetermination. The Commission reviewed the file, is advised of its contents, and hereby issues its decision.

The taxpayers were issued an NODD by the Bureau pursuant to an IRS redetermination of their income. The Bureau received the federal audit from [Redacted] showing they had reduced or eliminated various expenses claimed on Schedule C. The Bureau reviewed the changes and determined they were applicable to the taxpayers' Idaho income tax return.

[Redacted] protested the determination stating that [Redacted] relieved her of all but roughly 25 percent of this liability and she would like the same solution for the state taxes. Ms. [Redacted] provided a copy of the [Redacted] determination as evidence of her reduced [Redacted] tax liability for taxable year 2006.

The Bureau referred the matter to the Legal/Tax policy Division for administrative review. The Commission sent Ms. [Redacted] a letter giving her two alternative methods for having the NODD redetermined. She did not respond to the Commission's letter. Therefore, the Commission decided the matter based upon the information available.

Idaho Code section 63-3002 states it is the intent of the Idaho Legislature to make the provisions of the Idaho income tax act identical to the provisions of the Internal Revenue Code relating to the measurement of taxable income, subject only to modifications contained in the Idaho law. From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho legislature intended any changes made to the taxpayers' federal return to be reflected on the taxpayers' Idaho return. Therefore, it is the Commission's position that the changes made to the taxpayers' federal return must be made to the taxpayers' state return.

Following the Idaho Code, the adjustments should be made to the taxpayers' Idaho income tax return. Ms. [Redacted] did not disagree with the adjustment made by the Bureau. Ms. [Redacted] argued that [Redacted] relieved her of a portion of the responsibility for the additional tax and she would like the state to do the same.

Idaho Code section 63-3031(b)(3) states:

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.

The taxpayers filed their 2006 Idaho income tax return as married filing joint. Therefore, both taxpayers are responsible for the tax, jointly and severally. At the [Redacted] level, Ms. Sutch apparently provided the IRS with additional information, and [Redacted] reduced her liability by granting her innocent spouse relief. The Internal Revenue Code has a provision to relieve innocent spouses from tax obligations; the Idaho Code does not.

The taxpayers filed a joint income tax return for 2006. The taxpayers' subsequent separation and divorce does not affect their 2006 filing. The Commission's ability to collect a deficiency in tax from either taxpayer remains the same.

Since the taxpayers did not provide anything to show the Bureau's adjustment was in error, the Commission must uphold the adjustment to the taxpayers' 2006 return. Furthermore, absent any statutory provision or court ruling, the Commission may collect the deficiency from either or both taxpayers.

Idaho Code section 63-3069 requires taxpayers to immediately send written notice to the Commission upon a final determination of a deficiency in [Redacted] tax or be subject to penalty. The taxpayers did not notify the Commission of [Redacted] determination; therefore, the Bureau imposed the 5 percent penalty provided by that section.

WHEREFORE, the Notice of Deficiency Determination dated November 1, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$3,302	\$165	\$796	\$4,263

Interest is calculated through July 11, 2011.

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 _____ 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.
