

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

|                                 |   |                  |
|---------------------------------|---|------------------|
| In the Matter of the Protest of | ) |                  |
|                                 | ) | DOCKET NO. 23692 |
| [Redacted],                     | ) |                  |
|                                 | ) |                  |
| Petitioner.                     | ) | DECISION         |
| _____                           | ) |                  |

On September 28, 2010, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing tax, penalty, and interest for taxable years 2003 through 2007 in the total amount of \$11,169.

A timely protest and petition for redetermination was filed by the taxpayer. An informal hearing has not been requested by the taxpayer. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The taxpayer and her husband failed to file their 2003 through 2007 Idaho individual income tax returns. Because Commission records showed the taxpayers met the state income tax filing requirements and had not filed their Idaho income tax returns for 2003 through 2007, the Bureau attempted to contact them for clarification. The taxpayers did not respond.

The Bureau requested and received a transcript of the taxpayers' [Redacted] records from [Redacted]. The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

Idaho Code § 63-3045 (1)(a) states:

**63-3045. Notice of redetermination or deficiency -- Interest.** (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall

be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

The Bureau prepared the missing Idaho returns on behalf of the taxpayer and sent her an NODD. The taxpayer appealed the NODD. The taxpayer acknowledged her filing requirement and gave several promises of dates returns were to be filed. But when returns were not received, her file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter from the tax policy specialist that outlined her appeal rights.

The information obtained from the [Redacted] along with Commission records, show the taxpayer and her husband had income in excess of the filing requirement. The Commission issued an NODD to the taxpayer and her husband on September 28, 2010, based on the income information obtained from the [Redacted] and that found in Commission records.

According to [Redacted], neither the taxpayer, nor her spouse, filed [Redacted] income tax returns for taxable years 2003 through 2007. If a husband and wife elect to file a joint return for [Redacted] purposes, they are required to file a joint return for state purposes. When the election to file a joint return was not made on the [Redacted] return, the Commission must issue assessments using the filing status of Married, Filing Separate with income and deductions equally divided between spouses according to Idaho's community property laws.

The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986).

The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer has provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable years 2003 through 2007.

THEREFORE, the Notice of Deficiency Determination dated September 28, 2010, and directed to [Redacted], is hereby 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>    |
|-------------|------------|----------------|-----------------|-----------------|
| 2003        | \$1,448    | \$362          | \$641           | \$ 2,451        |
| 2004        | 2,150      | 538            | 823             | 3,511           |
| 2005        | 1,710      | 428            | 551             | 2,689           |
| 2006        | 894        | 224            | 232             | 1,350           |
| 2007        | 1,031      | 258            | 196             | <u>1,485</u>    |
|             |            |                | TOTAL DUE       | <u>\$11,486</u> |

Interest is calculated through December 30, 2011.

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

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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.

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