

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 23799  
Petitioner. )  
DECISION  
\_\_\_\_\_ )

On December 6, 2010, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income tax, penalty, and interest for taxable year 2003 and taxable years 2005 through 2007 in the total amount of \$4,240.

On February 5, 2011, the taxpayer filed a timely protest. The taxpayer requested a hearing but did not provide a list of dates and times she was available to meet. Therefore, the Commission, having reviewed the file, hereby issues its decision modifying the NODD.

This is a non-filer case. The taxpayer did not submit Idaho individual income tax returns for taxable year 2003 or taxable years 2005 through 2007. A search of Commission records indicate the taxpayer appears to be an Idaho resident who meets the Idaho individual income tax filing requirements. Therefore, the Bureau sent the taxpayer a letter, dated June 11, 2010, asking her for an explanation of why her returns for the aforementioned years had not been filed. The taxpayer responded questioning why she would need to file returns since she has not worked in over 30 years. Several lengthy conversations between the Bureau and the taxpayer then ensued. During these phone calls, income tax laws were explained and forms, instructions, and income information were requested by the taxpayer and sent by the Bureau. The taxpayer was then given a due date of August 13, 2010, to submit returns.

On August 12, 2010, the taxpayer contacted the Bureau and requested another extension of time to submit returns and another copy of the income information that was previously provided. This pattern continued for several months until on December 6, 2010, the Bureau prepared returns on behalf of the taxpayer and sent her an NODD. The NODD was based on information obtained from [Redacted] and those records retained by the Commission.

The taxpayer appealed the NODD questioning primarily the taxability of the stock sales that occurred during the years of the NODD. The Bureau conducted extensive research relating to these stock sales and determined enough historical data existed to justify dropping the stock sales from the NODD for taxable years 2003 and 2005. When these sales of municipal stocks and bonds were removed from the taxpayer's income, the Bureau determined the taxpayer did not have a tax liability for taxable year 2003, therefore, that year was dropped from the NODD, and the taxpayer's adjusted gross income and resulting tax liability for taxable year 2005 was reduced. Stock sales of this type did not occur in taxable years 2006 or 2007, therefore, no adjustments were made to these years.

The taxpayer was sent a revised NODD and given the opportunity to withdraw her appeal. The taxpayer continued to disagree with the Bureau's calculation of her tax liability but did not provide any additional documentation or submit returns. When the Bureau and the taxpayer could not reach a mutually acceptable agreement, the case was sent to the Legal/Tax Policy Division for administrative review.

On May 27, 2011, the Commission sent the taxpayer a letter that explained the methods available for redetermining an NODD. The taxpayer responded by telephone on June 7, 2011, and again on June 8, 2011, to discuss her case and potential resolutions. She did not request a hearing. On June 14, 2011, in an effort to bring the case to a timely resolution, a proposed

Settlement Agreement, with a response date of July 1, 2011, was sent to the taxpayer for her review and approval. Between June 14, 2011, and June 30, 2011, the taxpayer repeatedly contacted the Commission again requesting her income information, a second copy of the hearing rights letter, and a copy of the original NODD be re-sent. On June 30, 2011, at 11:18 p.m. the Commission received a fax from the taxpayer requesting a hearing. The taxpayer chose not to sign the Settlement Agreement.

On July 5, 2011, the Commission sent the taxpayer a letter acknowledging her request for an informal hearing. The Commission provided a list of three dates and times for a hearing and asked the taxpayer to choose one, or in the alternative, provide three different dates she was available before August 1, 2011. The taxpayer responded by phone on July 11, 2011, and requested additional time, beyond August 1, 2011, in which to schedule a hearing. On July 19, 2011, the Commission sent a follow-up letter to the taxpayer again requesting a list of dates she was available for a hearing, this time allowing until September 1, 2011, to pick a date and time. On July 21, 2011, the taxpayer called requesting a copy of her June 30, 2011, letter be faxed to her. The Commission obliged and faxed the letter the same day. During this phone conversation, the taxpayer made no mention of dates for the informal hearing.

On August 31, 2011, the taxpayer left messages requesting another copy of the information used to prepare the NODD and an extension of time in which to review this information. On September 1, 2011, the taxpayer called to again ask for additional time. The Commission informed the taxpayer that it believes she has had more than an adequate amount of time. In addition, the income information used to prepare the NODD, along with forms, instructions, and copies of correspondence have been sent to her repeatedly, and the time has come for the Commission to issue a decision in this matter.

The Bureau requested and received a transcript of the taxpayer's [Redacted] income records from [Redacted]. [Redacted].

The Idaho resident individual income tax returns the Bureau prepared on behalf of the taxpayer were based on income information gleaned from the taxpayer's [Redacted] income records and the records retained by the Commission. For taxable years 2005 through 2007, the taxpayer's adjusted gross income consisted entirely of interest and dividends reported to the taxpayer. The interest and penalty added by the Bureau pursuant to Idaho Code §§ 63-3045 and 63-3046 was reviewed and found to be proper and in accordance with Idaho Code.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show the deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer failed to file her 2005 through 2007 Idaho individual income tax returns. Having presented no information in support of her argument, the taxpayer has failed to meet her burden of proving error on the part of the deficiency determination. Absent information to the contrary, the Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for those years.

THEREFORE, the Notice of Deficiency Determination dated December 6, 2010, and directed to [Redacted] is hereby MODIFIED and AFFIRMED.

IT IS ORDERED and THIS DOES ORDER 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	\$ 61	\$10	\$20	\$ 91
2006	198	20	51	269
2007	121	12	23	<u>156</u>
			TOTAL DUE	<u>\$516</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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