

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 23972
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On February 23, 2011, the Income Tax Audit Bureau (Audit) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing additional individual income tax, penalty, and interest in the total amount of \$350 for taxable years 2007 and 2008.

The taxpayer filed a timely appeal and petition for redetermination. She did not request a hearing nor has she submitted additional information for the Commission’s consideration. The Commission has reviewed the file and hereby issues its decision modifying the NODD.

Audit selected the taxpayer’s 2007 Idaho income tax return for review. The taxpayer’s 2007 [Redacted] and state returns and the accompanying schedules were examined. Audit asked the taxpayer to provide documentation to support the alternative energy devices deduction claimed, along with the dependency exemption deductions claimed in taxable year 2007. Audit also requested the taxpayer submit an Idaho income tax return for taxable year 2008, as a review of Commission records did not show a return had been submitted.

The taxpayer did not respond to the request for additional documentation nor did she submit a 2008 Idaho individual income tax return. The taxpayer’s [Redacted] income records were made available to the Commission pursuant to Internal Revenue Code § 6103(d) and Idaho Code § 63-3077. The Bureau determined the taxpayer’s income required her to file Idaho individual income tax returns for taxable year 2008.

Idaho Code § 63-3045 (1)(a) states:

**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.

Because the Commission's files did not include the taxpayer's Idaho individual income tax return for taxable year 2008, Audit prepared the return on the taxpayer's behalf and issued an NODD. The NODD was based on the information received from [Redacted] those records retained by the Commission. The information received from [Redacted] shows the taxpayer was allowed the dependent exemptions on her [Redacted] return, therefore, they were allowed on her Idaho return and no adjustment was made. Audit also included in the NODD an adjustment to disallow the insulation deduction and the alternative energy device deduction taken by the taxpayer on her 2007 Idaho individual income tax return.

The taxpayer appealed the determination, and 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.

In the protest letter delivered by the taxpayer on April 27, 2011, she stated that she has never had to pay taxes this high and that she would be gathering receipts and figuring her taxes with a tax specialist. Audit acknowledged the protest on April 28, 2011, and gave the taxpayer until May 31, 2011, to locate documentation and submit her 2008 Idaho individual income tax return.

On June 7, 2011, a revised NODD that allowed previously non-identified withholding for taxable year 2008 was sent to the taxpayer along with a letter asking the taxpayer to consider withdrawing her appeal if she agreed with the reduced amount of tax due shown on the modified NODD. To date, no return has been received, and there has been no response from the taxpayer.

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 failed to file an Idaho individual income tax return for taxable year 2008 and has provided no documentation concerning the insulation deduction or the alternative energy device deduction for taxable year 2007. Absent information to the contrary, the Commission accepts Audit's calculation of Idaho income tax, penalty, and interest for taxable year 2007 and modifies the NODD for taxable year 2008 to allow credit for withholding.

THEREFORE, the Notice of Deficiency Determination dated February 23, 2011, and directed to [Redacted], is hereby MODIFIED and AS MODIFIED, is 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>
2007	\$108	\$0	\$21	\$129
2008	132	33	17	<u>182</u>
			TOTAL DUE	<u><u>\$311</u></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.