

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23953
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated March 14, 2011, issued by the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission asserting income tax, penalty, and interest for taxable years 2004, 2005, and 2006 in the total amount of \$3,779. Petitioner disagreed with the Bureau’s determination of her Idaho taxable income and that she was required to file an Idaho income tax return for taxable year 2005. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Bureau received information [Redacted] that Petitioner received wages for employment in Idaho in 2004 and 2006. The Bureau reviewed the Tax Commission’s records and found Petitioner did not file Idaho individual income tax returns for taxable years 2004, 2005, and 2006. The Bureau sent Petitioner a letter asking about her requirement to file the missing income tax returns. Petitioner responded stating she was not required to file because she lived and worked [Redacted] during those years. However, based upon the information available, the Bureau decided to send Petitioner a domicile questionnaire. The Bureau and Petitioner exchanged numerous communications but when Petitioner failed to return the domicile questionnaire or to keep the lines of communication open, the Bureau determined Petitioner was required to file Idaho income tax returns for each of the years. The Bureau prepared returns for Petitioner and sent her a Notice of Deficiency Determination.

Petitioner protested the Bureau's determination stating she moved from Idaho in October 2004. She stated she lived [Redacted] in 2005 and did not work in Idaho. Petitioner also questioned the amount of income determined by the Bureau.

The Bureau acknowledged Petitioner's protest, sent her another domicile questionnaire, and asked Petitioner to provide copies of her [Redacted] income tax returns. Petitioner completed the questionnaire, prepared Idaho income tax returns for taxable years 2004 and 2006, and provided copies of her [Redacted] and [Redacted] 2005 income tax returns. The Bureau reviewed the information Petitioner provided and determined Petitioner was not required to file a 2005 Idaho income tax return. As for 2004 and 2006, the Bureau did not believe the returns provided by Petitioner were accurate, so the Bureau did not accept Petitioner's returns. The Bureau obtained additional information [Redacted] and provided that information to Petitioner. Petitioner continued to contest the Bureau's determination, so the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner failed to respond to the Tax Commission's letter and did not respond to the follow-up letter the Tax Commission sent her. Therefore, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3002 states the intent of the Idaho legislature with regard to the Idaho Income Tax Act. It states in pertinent part:

[T]o impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state.

Idaho Code section 63-3013 defines an Idaho resident as an individual who is domiciled in Idaho for the entire taxable year or who maintains a place of abode in Idaho for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state.

Idaho Code section 63-3013A defines a part-year resident of Idaho as an individual who is not a resident and who has changed his domicile from Idaho or to Idaho during the taxable year or has resided in Idaho for more than one day during the taxable year.

Idaho Code section 63-3030 provides the filing thresholds for residents and part-year residents. It states in pertinent part:

Returns with respect to taxes measured by income in this chapter shall be made by the following:

- (1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.
- (2) . . . any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500) . . .

Petitioner stated she moved from Idaho [Redacted] in October 2004 to be with her fiancé and to get married. However, Petitioner received wages in 2004 while living in Idaho in excess of the filing requirement. Therefore, Petitioner was required to file a 2004 Idaho individual income tax return.

Petitioner's statements regarding the length of time she was in [Redacted] were inconsistent. In one case, Petitioner stated she came back to Idaho in January 2006, but the majority of the time, Petitioner stated she came back to Idaho in August 2006. Other information in the record tends to coincide with the August date, so the Tax Commission decided the August date was the correct date Petitioner returned to Idaho. Petitioner's earnings, while in Idaho, were

in excess of Idaho's filing requirement for taxable year 2006. Consequently, Petitioner was also required to file a 2006 Idaho individual income tax return.

The Bureau determined Petitioner was an Idaho resident for 2004 and 2006. The Bureau based Petitioner's Idaho taxable income on W-2 and 1099 information obtained [Redacted] and the Tax Commission's records. The returns Petitioner submitted for 2004 and 2006 were also Idaho resident returns, but she only reported the income she earned while in Idaho. After receiving additional information [Redacted], the Bureau modified its determination dropping taxable year 2004 deciding it was not worth pursuing because of the credit Petitioner could claim for the taxes she paid [Redacted].

However, the Tax Commission's review of the matter views Petitioner's situation differently. In 2004, Petitioner was a part-year resident who left Idaho in October. As such, and because Petitioner's wages exceeded the filing requirement of Idaho Code section 63-3030, Petitioner should have filed a part-year resident income tax return with Idaho reporting her Idaho source income. And because there was no double taxed income, Petitioner was not entitled to a credit for taxes paid [Redacted]. The Tax Commission agrees Petitioner was not required to file an Idaho income tax return for taxable year 2005, since Petitioner appeared to abandon Idaho [Redacted] and Petitioner had no Idaho source income. For 2006, Petitioner came back to Idaho and, once again, had earnings in excess of Idaho's filing requirement. Petitioner was a part-year resident and is only required to report her Idaho source income while a nonresident and all her income after becoming an Idaho resident again.

CONCLUSION

Petitioner had income from Idaho sources in excess of Idaho's filing requirement for both 2004 and 2006. Since Petitioner moved out of Idaho in 2004 and moved into Idaho in 2006,

Petitioner was a part-year resident for both 2004 and 2006. Therefore, Petitioner should have filed part-year resident Idaho income tax returns for 2004 and 2006.

Petitioner's correct filing for taxable year 2006 as a part-year resident resulted in a refund to Petitioner. However, Idaho Code section 63-3072 prohibits crediting or issuing refunds if a claim for refund is not made within three years of the due date of the return. Petitioner's 2006 income tax return was due on April 15, 2007. Petitioner did not submit her 2006 Idaho income tax return until April 15, 2011, well past the statute of limitations for crediting or refunding any overpayment. Therefore, the Tax Commission must deny Petitioner's refund for taxable year 2006.

Petitioner's correct filing for taxable year 2004 as a part-year resident resulted in Petitioner owing tax to Idaho. Since Petitioner's 2004 return was delinquent, the Tax Commission added interest and penalty as provided in Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated March 14, 2011, and directed to [Redacted] is AFFIRMED AS MODIFIED by this decision.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX(REFUND)</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$360	\$90	\$149	\$599
2006	(0)	(0)	(0)	<u>(0)</u>
			TOTAL DUE	<u>\$599</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.
