

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
[Redacted],) DOCKET NO. 25018
)
)
Petitioner.) DECISION
)
)
_____)

The Idaho State Tax Commission’s (Commission) Collection and Compliance Bureau (CCB) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable year 2006 in the total amount of \$922.39. The petitioner filed a timely petition for redetermination (petition). The Commission, having reviewed the file, hereby issues its decision.

On September 13, 2011, the Commission received an Idaho Individual Income Tax Form 40 from the petitioner reflecting an amount due of \$175. The petitioner did not send in a \$175 payment with the filing of the return.

On October 6, 2011, the CCB sent the petitioner a tax computation change letter reflecting a corrected tax of \$1,075 along with the following explanation:

Reasons for the changes:

When filing “married filing separate”, if one spouse itemizes, then both spouses must itemize. We adjusted your return to match the itemized deductions on your Schedule A.

An error was made in computing taxable income.

You incorrectly computed the balance of your refund or tax due.

If you do not agree with this adjustment, please send a written response to my attention within 21 days of the date of this letter.

On October 14, 2011, the CCB sent the petitioner a “Statement of Account for Individual Income Tax” reflecting an outstanding net amount due of \$911.77. The net amount due was comprised of \$1,075 in tax, \$268.75 of penalty, and \$269.02 of interest totaling \$1,612.77. The \$1,612.77 was offset by \$701 of credits in arriving at the additional amount due of \$911.77.

The CCB’s Statement of Account letter was followed up with the issuance of the NODD on March 15, 2012. The petitioner filed her petition in March 2012. In the petitioner’s petition, the petitioner stated:

The items in the notice to which I protest is the tax, penalty and interest due for 2006.

I protest and object to these items because I was legally married to [Redacted] at that time. I was entitled to claim my son [Redacted] as a dependent, as well as all other deductions if I were to have filed jointly. Unfortunately, [Redacted] filed his taxes, using all the deductions, as a single head of household. This was fraudulent and I had absolutely no knowledge until my divorce in 2009.

When the petitioner filed her Idaho resident individual income tax return the only itemized deduction reflected on her federal return was a \$63 state income tax deduction; however, when she calculated her Idaho taxable income she claimed the \$10,300 standard deduction for married filing separately. Additionally, she claimed a personal exemption for her son as a dependent. CCB argues in its Protest Summary that the petitioner is not entitled to the standard deduction, but is only allowed those itemized deductions that her former spouse had not claimed, and that since her former spouse claimed the exemption for the son, she is not entitled

to claim the exemption. The difference between the two approaches can be summarized as follows:

Table 1 – Idaho Taxable Income

Description	Per Petitioner	Per CCB
Wages	\$25,160	\$25,160
Standard Deduction	-10,300	0
Personal Exemptions	-6,600	-6,600
Idaho Taxable Income	<u>\$8,260</u>	<u>\$18,560</u>

Table 2 – Tax, Penalty, and Interest

Description	Per Petitioner	Per CCB
Idaho Tax Liability	\$278	1,168.00
PBF	0	10.00
Grocery Credit	-40	-40.00
Withholdings	-63	-63.00
Subtotal	<u>\$175</u>	<u>1,075.00</u>
Penalty		268.75
Interest		279.64
Other Period Payments Applied		-701.00
Balance Due		<u>\$922.39</u>

In July and again in September 2012, the petitioner was informed of her appeal rights. The petitioner has not requested an informal hearing. As of the date of this decision, the petitioner has not provided any information that would resolve this case in the petitioner’s favor for the taxable years. It is the petitioner’s burden of proving error on the part of the deficiency determination. Albertson’s, Inc. v. State Dept. of Revenue, 106 Idaho 810, 814, (1984); Parsons v. Idaho State Tax Comm’n, 110 Idaho 572, 574 (Ct. App. 1986). Since the petitioner has not met this burden of proof showing that the NODD prepared by the CCB is incorrect, the Commission upholds the CCB’s determination for the taxable years.

THEREFORE, the NODD dated March 15, 2012, and directed to petitioner, is AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>PAYMENT</u>	<u>TOTAL DUE</u>
2006	\$1,075	268	302	(701)	\$944

Interest is calculated through January 31, 2013, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6)(c).

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.
