

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25139
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On July 5, 2012, 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 years 2009 and 2010 in the total amount of \$250.

The taxpayer filed a timely protest. She did not submit additional information or request an informal conference. The Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

The taxpayer submitted claims for refund of the grocery credit in both taxable years 2009 and 2010, showing little or no gross income. Because information available to the Commission revealed several discrepancies in the amount of income reported by the taxpayer, the Bureau contacted her for clarification. The taxpayer did not respond.

The Bureau requested and received income information from [Redacted] in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077. Those records indicated that the taxpayer's income, for the years in question, exceeded the filing requirements of Idaho Code § 63-3030.

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.

Because the taxpayer did not file her Idaho individual state income tax returns, only a claim for refund of the grocery credit, the Bureau prepared provisional returns and issued an NODD. The NODD was based on information obtained from [Redacted] and records retained by the Commission. The taxpayer protested the Bureau's determination stating that she had business expenses that were not taken into consideration on the NODD.

The Bureau sent the taxpayer a letter acknowledging her protest and again requested copies of her [Redacted] income tax returns for taxable years 2009 and 2010. When the returns did not arrive, the taxpayer's file was transferred to the Legal/Tax Policy Division of the Commission for administrative review.

The taxpayer did not respond to a letter advising her of her appeal rights or provide any additional information for the Commission's consideration. Therefore, the Commission decided this matter based on the information available.

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. The filing status of single was used to determine the taxpayer's Idaho income tax responsibility.

For the years of the NODD, the taxpayer claimed to be entitled to business expenses relating to her self-employment income reported to her on 1099-Misc forms.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer did not meet her burden. The taxpayer stated that the Bureau did not account for the expenses incurred in her business. However, it is the taxpayer's responsibility, and the burden rests upon her to disclose her receipts and claim her proper deductions. United States v. Ballard, 535 F.2d 400 (1976). The Commission recognizes that the taxpayer may have had business expenses to offset her income; yet, if the taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and the taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S. Ct. 413 (1931). Since the taxpayer failed to meet her burden, the Commission finds the adjusted gross income amounts for taxable years 2009 and 2010, calculated by the Bureau, is a reasonable representation of the taxpayer's Idaho adjusted gross income and resulting Idaho income tax.

The interest and penalty added by the Bureau pursuant to Idaho Code §§ 63-3045 and 63-3046 was reviewed and found to be proper.

THEREFORE, the NODD dated July 5, 2012, is hereby AFFIRMED and MADE FINAL.

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>
2009	\$119	\$10	\$14	\$143
2010	93	10	7	<u>110</u>
			TOTAL DUE	<u>\$253</u>

Interest is calculated through January 31, 2013.

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 _____ 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.