

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 25124
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated December 15, 2011, directed to [Redacted] asserting additional income tax, penalty, and interest for taxable year 2008 in the total amount of \$1,543. Petitioner did not disagree with the audit adjustment; he is seeking relief as an innocent spouse. The Tax Commission reviewed the matter and hereby issues its decision.

**BACKGROUND**

The Tax Discovery Bureau (Bureau) received information from the [Redacted] that a change was made to the married filing joint [Redacted] income tax return for taxable year 2008 for [Redacted]. The Bureau reviewed the change and determined the 2008 Idaho income tax return filed by [Redacted] should be changed too. The Bureau changed the return and sent [Redacted] a Notice of Deficiency Determination.

After receipt of the Notice of Deficiency Determination, Petitioner contacted the Bureau stating that he and [Redacted] were divorced, and that he had filed for [Redacted] innocent spouse relief with the [Redacted]. The Bureau informed Petitioner the state of Idaho did not have anything similar to the [Redacted] innocent spouse provisions, and he was told about the protest procedures. Petitioner filed a protest requesting any kind of relief of the taxes owed due to [Redacted] actions.

The Bureau referred the matter for administrative review. The Tax Commission reviewed the matter and sent Petitioner a letter that discussed his rights and the methods available for re-determining a protested Notice of Deficiency Determination. The Tax Commission also requested information on Petitioner's request for innocent spouse relief from the [Redacted]. Petitioner did not respond to the Tax Commission's hearing letter, nor did he provide anything regarding his request for the [Redacted] innocent spouse relief. The Tax Commission obtained additional information from the [Redacted] that implied the [Redacted] granted Petitioner some innocent spouse relief; however, the amount could not be determined. Regardless, seeing that Petitioner had the opportunity to state his case but failed to do so, the Tax Commission decided the matter based upon the information available.

#### **LAW AND ANALYSIS**

Internal Revenue Code (IRC) section 6015 codified the commonly referred to innocent spouse relief provision. IRC section 6015 provides for relief from a tax liability to an individual who has filed a joint return, if their circumstances qualify. To qualify, 1) a joint return must be filed for the taxable year, 2) there must be an understatement of tax attributable to erroneous items of one individual filing the joint return, 3) the other individual filing the joint return must establish that in signing the return he or she did not know an understatement existed, 4) it would be inequitable to hold the other individual liable for the deficiency in tax, and 5) the other individual elects the benefits of this provision within a certain timeframe. IRC section 6015(b)(1). If a taxpayer meets all of these requirements, he/she is eligible for relief from the joint and several liability of the entire unpaid [Redacted] income tax amount. However, the individual may be determined to be responsible for only a portion of the [Redacted] tax liability

based upon the extent that they knew the source or extent of the liability, up to half of the total liability owed. IRC section 6015(b)(2).

This provision may prove beneficial for individuals unaware of their spouse's less than upright tax behavior for [Redacted] income tax purposes; however, the state of Idaho does not have a similar provision. While Idaho's income tax code is intended to mimic the IRC, this intent only applies to the determination of taxable income, not the release of an individual's income tax liability. *See* Idaho Code section 63-3002.

Furthermore, pursuant to Idaho Code section 32-906, Idaho is a community property state. Therefore, all property, income, and debts acquired during the course of marriage are equally shared, and each spouse is both jointly and severally liable on debts of the community. In addition to the community property statutes, as married individuals, husbands and wives can elect to file their Idaho income tax returns jointly combining their incomes, expenses, and deductions. *See* Idaho Code section 63-3031. If this election is made, the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several. Idaho Code section 63-3031(b)(3). Since Petitioner filed a married filing joint Idaho income tax return for taxable year 2008, any income tax liability accrued for the state of Idaho can be pursued severally or jointly.

## **CONCLUSION**

Petitioner argued his [Redacted] income tax liability, after the change to his [Redacted] income tax return, was absolved due to his lack of knowledge, benefit, and the unscrupulous actions of his former spouse, and that Idaho should also grant him some relief. However, Idaho does not have a statute that allows the Tax Commission to release Petitioner from his tax obligation when he has filed a married filing joint income tax return with his spouse, regardless

of the circumstances. Therefore, the Tax Commission hereby upholds the Notice of Deficiency Determination.

THEREFORE, the Notice of Deficiency Determination dated December 15, 2011, and directed to [Redacted] is AFFIRMED.

IT IS ORDERED that [Redacted] pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$1,307	\$65	\$245	\$1,617

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 \_\_\_\_\_ 2013.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2013, 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.  
  
\_\_\_\_\_