

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 25331
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

[Redacted] (Petitioner) protested the Notices of Deficiency Determination dated October 27, 2011, issued by the Tax Discovery Bureau of the Idaho State Tax Commission proposing income tax, penalty, and interest for taxable years 2005 through 2009, in the total amount of \$5,413. Petitioner did not dispute that she was required to file Idaho income tax returns; she stated she would file her actual returns for the years in question. The Tax Commission reviewed the matter and hereby issues its decision.

**BACKGROUND**

Petitioner timely filed Idaho Forms 24 for the taxable years 2005 and 2006. Petitioner also filed a resident Form 40 for taxable year 2007. The Tax Discovery Bureau (Bureau) found, while developing another case, that Petitioner was the 100 percent owner of an all Idaho S-corporation. In resolving the other case, the Bureau obtained Idaho corporate income tax returns that, due to the characteristics of an S-corporation entity, required Petitioner, as the sole shareholder, to report the S-corporation’s income on her individual income tax return. However, Petitioner did not report the flow-through income on her 2007 return and she failed to file income tax returns altogether for the taxable years 2005, 2006, 2008, and 2009. The Bureau sent Petitioner a letter asking about her requirement to file Idaho income tax returns and to amend her 2007 return. Petitioner did not respond. The Bureau determined Petitioner was required to file Idaho income tax returns based upon the flow-through income, so it prepared returns for

Petitioner and sent her a Notice of Deficiency Determination. The Bureau also adjusted Petitioner's 2007 return to include her flow-through income.

Petitioner protested the Bureau's determination. Petitioner stated she would file her own returns because the returns the Bureau prepared did not include all the items of income and expense she incurred during the taxable years. Petitioner requested additional time to prepare and submit her income tax returns.

The Bureau allowed Petitioner additional time; however, even after several extensions, no returns were received. Consequently, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the case and sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner's representative contacted the Tax Commission and stated Petitioner's returns were prepared; all they needed was Petitioner's signature. The Tax Commission waited for Petitioner's returns, but when it was apparent the returns were not forthcoming, the Tax Commission sent a follow-up letter to Petitioner. Petitioner did not respond, so the Tax Commission decided the matter based upon the information available.

### **LAW AND ANALYSIS**

Idaho Code section 63-3030 provides the income thresholds for filing Idaho individual income tax returns. In general, if an individual is required to file a federal income tax return, an Idaho income tax return is required as well. From the information available, Petitioner's flow-through income from her wholly owned S-corporation exceeded the income threshold for filing income tax returns for each of the years in question. Therefore, since Petitioner's income

exceeded the income filing threshold, Petitioner was required to file Idaho individual income tax returns.

Petitioner did not deny she was required to file Idaho income tax returns. Petitioner only seems to disagree with the amount of her Idaho taxable income.

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). Petitioner provided nothing to show the determination of her taxable income was incorrect. If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear her misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Petitioner did not meet her burden of proof.

The Bureau prepared returns for Petitioner based upon the best information available. The Tax Commission reviewed the returns the Bureau prepared and found that the returns correctly represent Petitioner's Idaho taxable income based upon the information available. Therefore, the Tax Commission upholds the Bureau's determination of Petitioner's Idaho taxable income.

The Bureau added interest and penalty to Petitioner's Idaho tax. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

## **CONCLUSION**

Petitioner received flow-through income from her wholly-owned Idaho S-corporation that exceeded the filing requirements for filing Idaho individual income tax returns for the taxable years 2005, 2006, 2008, and 2009. Petitioner was required to file Idaho income tax

returns. Furthermore, Petitioner's 2007 Idaho income tax return did not include the flow-through income from her S-corporation for that year. Petitioner's 2007 taxable income was understated. Petitioner did not provide any additional information to substantiate she incurred other expenses; consequently, no other expenses were allowed. Accordingly, the Tax Commission upholds the Notices of Deficiency Determination.

THEREFORE, the Notices of Deficiency Determination dated October 27, 2011, and directed to [Redacted] are hereby AFFIRMED.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$ 627	\$157	\$229	\$1,013
2006	1,280	320	387	1,987
2007	1,168	58	271	1,497
2008	107	27	18	152
2009	680	170	80	<u>930</u>
			TOTAL DUE	<u>\$5,579</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 \_\_\_\_\_ 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.  
\_\_\_\_\_