

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 25402
)
)
Petitioners.) DECISION
)
_____)

On September 27, 2012, the Income Tax Audit Section (ITA) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted](taxpayers), proposing income tax, penalty, and interest for taxable years 2002 through 2005 in the total amount of \$1,010.

Information available to the Commission indicates the taxpayers received gross income from Idaho sources in excess of \$2,500 for taxable years 2002 through 2005, and are therefore required to file income tax returns in Idaho for each of aforementioned years. The Idaho source income was K-1 income from the Idaho partnership, [Redacted].

ITA searched Commission records and could not locate income tax returns for the taxpayers for taxable years 2002 through 2005. ITA sent the taxpayers a letter asking for an explanation of the missing returns, but the taxpayers did not respond. ITA prepared returns on behalf of the taxpayers and issued an NODD.

The taxpayers were married during the taxable years in question, but divorced in taxable year 2006. The taxpayers submitted Married, filing joint [Redacted] income tax returns for taxable years 2002 through 2005; therefore, the returns prepared by ITA used this same filing status. An identical NODD was issued in both taxpayers names and sent to their respective addresses. A timely protest was filed on [Redacted] behalf by her CPA. An informal hearing has not been requested.

The taxpayers were issued a Notice of Deficiency Determination based upon the fact that they received income from an Idaho source in excess of the filing requirement, and did not submit an Idaho individual income tax return. [Redacted] appeal did not dispute the requirement to file an Idaho income tax return, but rather stated the income was earned by her former husband, and according to their divorce decree, he was liable for any unpaid taxes.

Idaho Code § 63-3031 sets forth authority regarding joint returns. It stated in pertinent part:

If a joint return is made, the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

Pursuant to the taxpayers filing a joint return, the state of Idaho had the right to hold the petitioners jointly and severally liable. The state of Idaho did not subsequently surrender any of those rights. One spouse may have a cause of action against the other if they are caused to pay an amount to the state of Idaho contrary to an agreement between the parties to the return. However, the state remains in a position to hold the spouses jointly and severally liable. Joint and several liability simply means the state may collect any portion of the liability up to the entire amount from either spouse.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of her argument, [Redacted] has failed to meet her burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayers have not provided the Commission with a contrary result to the determination of their income for taxable years 2002 through 2005, based on the K-1 income received from an Idaho partnership. Therefore, the Commission must uphold the deficiency.

THEREFORE, Notice of Deficiency Determination dated September 27, 2012, is hereby AFFIRMED, AND MADE FINAL.

IT IS ORDERED that the taxpayers pay the following tax, penalty, and interest (computed to March 12, 2013:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$68	\$17	\$37	\$122
2003	127	32	63	222
2004	186	47	80	313
2005	223	56	82	<u>361</u>
			Total Due	\$1018.00
			Amt. Rec'd	<u>(1018.00)</u>
			Amount Due	<u>\$0.00</u>

An explanation of the taxpayers' 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.
