

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

In the Matter of the Protest of )  
 ) DOCKET NO. 25416  
[Redacted], )  
 )  
 )  
Petitioner. ) DECISION  
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\_\_\_\_\_ )

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated May 24, 2012, issued by the Tax Discovery Bureau of the Idaho State Tax Commission proposing income tax, penalty, and interest for taxable years 1997 through 2009 in the total amount of \$117,815. Petitioner did not dispute that she was required to file income tax returns, she disagreed with the amount of taxable income for each year. Petitioner stated she would complete and file her own returns. The Tax Commission reviewed the matter and hereby issues its decision.

**BACKGROUND**

Petitioner operated a small business in Idaho. She completed and filed Idaho sales and use tax returns for taxable years 1997 through 2009 with the Tax Commission. The Tax Discovery Bureau (Bureau) researched the Tax Commission’s records and found that Petitioner did not file Idaho income tax returns for those years. The Bureau asked Petitioner to file the missing income tax returns, which produced a response from Petitioner asking for the forms and instructions. The Bureau sent Petitioner the forms and instructions and waited for Petitioner to file her income tax returns. However, when it became apparent Petitioner was not going to file her returns, the Bureau reviewed the information available, prepared returns for Petitioner, and sent Petitioner a Notice of Deficiency Determination.

Petitioner protested the Bureau’s determination, disagreeing with the taxable income determined for each of the taxable years in question. Petitioner stated she is struggling with

dementia, but is planning to file her returns for each of the years. Petitioner requested additional time to put everything together.

The Bureau allowed Petitioner additional time, but as before, no returns were received. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner did not respond. The Tax Commission sent a follow-up letter, but still received no response from Petitioner. Therefore, the Tax Commission decided the matter based upon the information available.

#### LAW AND ANALYSIS

Petitioner owned and operated a small business called [Redacted]. Petitioner started reporting business activity in 1997. Petitioner consistently reported her taxable sales from the business to the Tax Commission. Petitioner also reported Idaho payroll in 1997. Petitioner operated this business as a sole proprietorship until March 2009 when she incorporated the business.

Idaho Code section 63-3030 states in pertinent part,

(a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a [Redacted] return under section 6012(a)(1) of the Internal Revenue Code. . .

Internal Revenue Code section 6012(a)(1) states that every individual having for the taxable year gross income that equals or exceeds the exemption amount plus the standard deduction for that individual is required to file a [Redacted] income tax return. Therefore, if Petitioner's sales, plus any other income Petitioner received in taxable years 1997 through 2009, equaled or exceeded the exemption amount plus the standard deduction, Petitioner was required

to file Idaho individual income tax returns.

The information available shows Petitioner's total sales and other income for each of the years exceeded the filing requirement of Idaho Code section 63-3030. Therefore, Petitioner was required to file Idaho individual income tax returns for taxable years 1997 through 2009.

The Bureau determined Petitioner's taxable income from the information Petitioner provided on her sales and use tax returns, and the withholding returns she filed with the Tax Commission. The Bureau also included interest income, some other 1099-MISC income, and schedule K-1 income from Petitioner's incorporated business. Petitioner undoubtedly incurred business expenses from the operations of her business, however, she failed to provide any information or documentation of those expenses. Consequently, no expenses or deductions were allowed on the returns prepared by the Bureau.

Deductions are a matter of legislative grace and the taxpayer bears the burden of proving that there is a provision in the law providing for the deduction and that she comes within the parameters of such law. New Colonial Ice v. Helvering, 54 S.Ct. 788 (1934). Petitioner did not meet her burden of proof with regard to any deductions or expenses. 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 his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). It is also well established in Idaho that a State Tax Commission deficiency notice 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 failed to meet this burden, too. Therefore, the Tax Commission upholds the Bureau's calculation of Petitioner's Idaho tax as being accurate based upon the information available.

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, respectively.

WHEREFORE, the Notice of Deficiency Determination dated May 24, 2012, and directed to [Redacted] is 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>
1997	\$ 121	\$ 30	\$110	\$ 261
1998	4,819	1,205	4,011	10,035
1999	5,048	1,262	3,831	10,141
2000	7,166	1,792	4,868	13,826
2001	4,311	1,078	2,597	7,986
2002	4,167	1,042	2,243	7,452
2003	3,767	942	1,828	6,537
2004	5,846	1,462	2,486	9,794
2005	7,474	1,869	2,728	12,071
2006	9,403	2,351	2,842	14,596
2007	9,338	2,335	2,169	13,842
2008	7,849	1,962	1,320	11,131
2009	1,037	259	123	<u>1,419</u>
			TOTAL DUE	<u>\$119,091</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.

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