

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25461
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On September 4, 2012, the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing additional tax for taxable year 2011 in the total amount of \$526.

The taxpayer filed a timely appeal and petition for reconsideration. The taxpayer did not request a hearing and has only submitted the information presented in her protest letter. The Commission, having reviewed the file, hereby issues its decision.

On February 6, 2012, the taxpayer filed her 2011 Idaho individual income tax return. The return showed a filing status of Married, filing separate and a refund due in the amount of \$1,046. Because of Idaho community property laws requiring income and expenses to be split equally among spouses, Taxpayer Accounting reviewed the taxpayer's husband's return and determined, based on the information available, income was not split equally. Taxpayer Accounting adjusted the taxpayer's return, and on March 19, 2012, sent her a letter informing her that additional income had been included on her return due to the community property split and she was now due a refund of \$690. The processing of the taxpayer's return continued and a check in the amount of \$690 was issued to the taxpayer.

On April 9, 2012, the taxpayer's spouse submitted an amended return for processing. The reason for the amended return, according to the statement made on the return, was that the tax preparation software did not correctly split the community property income. On July 16, 2012,

Taxpayer Accounting requested additional information from both the taxpayer and her spouse concerning the community property income. The information requested included copies of W-2's and 1099's along with a schedule showing the equal division of the community income. After all information was reviewed, it was determined the taxpayer, for taxable year 2011, was due a refund in the amount of \$164. A second adjustment to the taxpayer's return was made and an NODD issued that proposed the taxpayer re-pay a portion of the refund she received.

The taxpayer protested the determination stating she relied on the adjustments first made by the Commission, and assumed when she received the refund of \$690 that it was correct. She also stated she trusted the Commission to process her return correctly and does not have the amount of money shown on the NODD just lying around to make up for the Commission's mistake.

Idaho is a community property state. (See Idaho Code section 32-906.) As such, any income earned by either husband or wife is community income. This is the general rule and, as always, there are exceptions to the general rule, but those exceptions do not apply in this case. In a community property state, married individuals that file married filing separate income tax returns are required to equally split their community income and deductions. In this case, the taxpayer is required to report half of her income and half of the income earned by her husband. Likewise, the taxpayer's husband is required to report half of his income and half of the taxpayer's income.

It is unfortunate the taxpayer was issued a refund to which she was not entitled. Nevertheless, the Commission must enforce the law and is not estopped by mistakes of returns. (See State of Idaho v. Adams, 90 Idaho 195, (1965).)

THEREFORE, the Notice of Deficiency Determination dated September 4, 2012, and directed to [Redacted] is hereby AFFIRMED, AND MADE FINAL.

IT IS ORDERED that the taxpayer pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2011	\$526	\$23	\$549

Interest is calculated through July 1, 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 _____ 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.
