

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 24689
Petitioner.) DECISION
_____)

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated August 9, 2011, issued to [Redacted] and [Redacted] by the Tax Discovery Bureau of the Idaho State Tax Commission for taxable years 2007 and 2008, in the total amount of \$62,956. Petitioner stated she and [Redacted] are divorced and he was responsible for filing their income tax returns, since it was his business that provided for the family. Petitioner submitted married filing separate returns in an attempt to fulfill her filing obligation, but those returns were rejected by the Tax Discovery Bureau (Bureau). The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Bureau received information showing Petitioner and [Redacted] received substantial 1099 income in taxable years 2007 and 2008. The Bureau reviewed the Tax Commission's records and found Petitioner and [Redacted] did not file Idaho individual income tax returns for those years. The Bureau sent Petitioner and [Redacted] letters asking about their requirement to file Idaho income tax returns. Neither responded, so the Bureau obtained additional information from the [Redacted], determined Petitioner and [Redacted] were required to file Idaho income tax returns, prepared returns for Petitioner and [Redacted], and sent them a Notice of Deficiency Determination.

Petitioner protested the Bureau's determination, stating she and [Redacted] were divorced and he was responsible for filing their income tax returns. Petitioner stated she has tried to get [Redacted] to file the returns for years, but has had no success. In an effort to comply with the law, Petitioner submitted married filing separate returns showing no income for taxable years 2007 and 2008. Petitioner stated she was a stay at home mom and had no idea what the family income was in those years. Petitioner stated she had no records to be able to file married filing joint returns.

The Bureau reviewed Petitioner's returns and rejected them as not being a correct representation of Petitioner's share of the community income. Even so, the Bureau acknowledged Petitioner's protest and referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioner a letter describing the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner did not respond, so the Tax Commission sent a follow-up letter. Petitioner contacted the Tax Commission asking what she needed to do. The Tax Commission gave Petitioner the information it had regarding the sales of property in Idaho and asked Petitioner to provide any information she had on the sales of the properties. Petitioner responded that she had absolutely no knowledge of the properties sold. Petitioner stated she tried for years, when she was married to [Redacted] to persuade him to file their tax returns. The only response she received was that he was working on it. Petitioner stated now that they are divorced she has no hope or chance of getting him to file the income tax returns. Petitioner stated in those years their income was very low and if [Redacted] would have filed they would have qualified for state medical assistance; nevertheless, [Redacted] refused to file the returns. Petitioner stated she believes she qualifies for the provision in the Idaho law for individuals in her situation.

The Tax Commission presented Petitioner with an option for resolving the matter, but Petitioner failed to accept the offer. Therefore, the Tax Commission hereby issues its decision 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 [Redacted] income tax return, an Idaho income tax return is required as well. From the information available, Petitioner's gross household income more than exceeded the threshold for filing income tax returns for each year. And, since Idaho is a community property state, half of the community or household income is attributable to Petitioner. Therefore, because Petitioner's community 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 seemed to disagree with the amount of her Idaho taxable income, due to the fact she has no knowledge of the income or any documentation to support the 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 stated she has no documentation or other information. If a taxpayer is unable to provide adequate proof of any material fact, be it income or deductions, 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 and [Redacted] based upon the best information available. Petitioner submitted returns for consideration, but those returns did not

account for any of the income earned by community; therefore, those returns were rejected by the Bureau. The Tax Commission reviewed both the returns the Bureau prepared and the returns Petitioner submitted. The Tax Commission agrees that Petitioner's returns are not representative of Petitioner's share of the community income; therefore, the Tax Commission also rejects Petitioner's returns. As for the returns the Bureau prepared, the Tax Commission found that the returns correctly represent Petitioner's and [Redacted] Idaho taxable income based upon the information available. Therefore, the Tax Commission upholds the Bureau's determination of Petitioner's and [Redacted] Idaho taxable income.

The Bureau added interest and penalty to Petitioner's and [Redacted] 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 and [Redacted] were married and were Idaho residents in 2007 and 2008. Petitioner's and [Redacted] community income exceeded the threshold for filing Idaho individual income tax returns. The Bureau prepared returns for Petitioner and [Redacted] using a filing status of married filing joint. Since married filing joint returns were prepared, and neither Petitioner nor [Redacted] provided returns showing an appropriate community property split of income and deductions, the married filing joint returns are an appropriate filing for Petitioner and [Redacted] for taxable years 2007 and 2008. Therefore, the Tax Commission hereby upholds the Bureau's determination.

THEREFORE, the Notice of Deficiency Determination dated August 9, 2011, and directed to [Redacted] and [Redacted] is AFFIRMED.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$13,492	\$3,373	\$3,614	\$20,479
2008	31,936	7,984	6,506	46,426
			TOTAL DUE	<u>\$66,905</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 _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.
