

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25508
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

BACKGROUND

On February 24, 2012, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (Petitioner) proposing income tax, penalty, and interest for taxable years 2007 through 2009, in the total amount of \$95,409. The NODD was prepared using information obtained from the [Redacted]. On April 26, 2012, the Petitioner filed a timely protest. The Petitioner hired [Redacted] as his Power of Attorney (POA). Income tax returns were prepared and filed for taxable years 2007 through 2010. The returns were reviewed and a new NODD was issued on August 23, 2012, to replace the original. The amount due for income tax, penalty, and interest was reduced to \$19,414. The second NODD was protested on October 25, 2012. The file was transferred to the Legal/Tax Policy Division on January 28, 2013, for resolution.

ISSUES

1. Whether the Petitioner has income tax liability for debt relief income reported on a 1099-C by [Redacted] or whether that is the ex-spouse's income.

2. Whether the Petitioner has income tax liability for the withdrawal of some pension funds as reported on Forms 1099-R by [Redacted]

3. Whether the Petitioner has income tax liability for the withdrawal of some pension funds as reported on Forms 1099-R by [Redacted].

4. Whether the Petitioner has income tax liability for the 1099s from [Redacted] reporting interest, dividends, and stock sales.

5. Whether the Petitioner has income tax liability for the 1099s issued by [Redacted]

6. Whether the Petitioner has income tax liability for the income reported by

[Redacted]DISCUSSION

This was originally a non-filer case. The Petitioner did not submit Idaho individual income tax returns for taxable years 2007 through 2010. The TDB requested and received a transcript of the taxpayer's [Redacted] income records from [Redacted] [Redacted]. The TDB sent a proposed NODD to the Petitioner on December 14, 2011, using the [Redacted] transcripts and other information that had been filed with the Commission. When there was no response, an actual NODD was sent on February 24, 2012, [Redacted]. Idaho income tax returns were filed for taxable years 2005 through 2010, on June 29, 2012. The returns were accepted as filed, except for the above referenced 1099s, which were not addressed in those returns. A modified NODD was issued on November 26, 2012, reflecting the items that were accepted and showing the reduced amount. A meeting was held on December 7, 2012, with the auditor, the petitioner, and the POA. The Petitioner explained that he had received several 1099s for income that he either did not receive or that someone else had the tax liability for. The auditor encouraged the Petitioner to either request the payors to issue corrected 1099s or to provide additional documentation to support his position.

Form 1099 is the informational form filed with the [Redacted] to report taxable payments to other taxpayers. 1099 forms are filed with the [Redacted] and a copy is sent to the payee or

the recipient of the payments. If situations change and the payor issues a 1099 to someone who no longer received funds or has no relation to the payor, it is the payee's responsibility to request the payor issue a corrected 1099. If income is received on behalf of another person (nominee), it is the nominee's responsibility to report the correct payee's name to the [Redacted] either by issuing a nominee 1099 or by reporting the correct payee name and tax ID number in a tax return. There is no responsibility between spouses for reporting a nominee. In the case of a divorce, the parties should move to correct the records and asset titles as soon as possible to avoid confusion in tax reporting.

After the meeting with the auditor, the petitioner provided copies of their divorce agreement, some Secretary of State annual reports for the businesses that issued 1099s, and correspondence with some creditors reporting fraud and disputing the debts. The creditors named and the account numbers available in the documents provided are not the same as the ones that filed 1099s. The divorce decree indicated that the [Redacted] retirement account was awarded to the Petitioner for the first \$8,511, and the balance awarded to his wife.

CONCLUSION

First issue – Whether the Petitioner has income tax liability for the debt relief reported to the [Redacted]. The Petitioner provided the Commission with correspondence with various creditors that indicated he was not responsible for a number of credit card accounts. However, none of the account numbers on the materials provided matched the credit account numbers that were awarded to his spouse in the divorce decree. One of the accounts cancelled and reported to the [Redacted] as debt relief, was specifically awarded to the Petitioner in the divorce decree. No adjustment to the NODD is indicated for this issue.

Second issue – Whether the Petitioner has income tax liability for the pension withdrawal

reported by [Redacted]. The divorce decree provided by the Petitioner orders that the [Redacted] account be liquidated and the amount above \$8,511 was awarded to the ex-spouse. The taxable income for 2007 was reduced by \$48,695, leaving \$8,511 as the Petitioner's income.

Third issue - Whether the Petitioner has income tax liability for the pension fund withdrawal reported by [Redacted]. No information was provided indicating this was not the Petitioner's income. No adjustment to the NODD is indicated for this issue.

Fourth issue – Whether the Petitioner has income tax liability for the interest, dividend, and stock sales income reported by [Redacted]. No information was provided indicating this is not the Petitioner's income. In fact, the Annual Report filed with the Idaho Secretary of State, lists the Petitioner as the President. If the records are not correct, it is the Petitioner's responsibility to get those corrected. No adjustment to the NODD is indicated for this issue.

Fifth issue - Whether the Petitioner has income tax liability for the dividend income reported by [Redacted]. No information was provided that indicates this is not the Petitioner's income. No adjustment to the NODD is indicated for this issue.

Sixth issue - Whether the Petitioner has income tax liability for the income reported by [Redacted]. No information was provided that indicates this is not the Petitioner's income. No adjustment to the NODD is indicated for this issue.

The Commission accepts the TDB's calculation of Idaho income tax, penalty, and interest for taxable years 2007 through 2009, modified only by the adjustment to the one retirement account.

THEREFORE, the Notice of Deficiency Determination dated February 24, 2012, corrected on November 26, 2012, modified herein, and directed to [Redacted] is hereby AFFIRMED.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/07	\$5,137	\$1,284	\$ 1,395	\$ 7,816
12/31/08	4,076	1,019	844	5,939
12/31/09	308	77	48	<u>433</u>
			TOTAL	\$14,217
			LESS REMITTANCE	<u>(200)</u>
			BALANCE DUE	<u>\$14,017</u>

Interest is calculated through April 16, 2014, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

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.
