

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 26203
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On January 31, 2011, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income taxes, penalties, and interest for taxable years 2005 through 2008, in the total amount of \$50,070.

On March 16, 2011, the taxpayer filed a timely appeal and petition for redetermination. The Commission has made numerous attempts to contact the taxpayer to allow her the opportunity to either appear for an informal hearing or provide additional information. However, these attempts were not successful. The Commission, having reviewed the file, hereby issues its decision.

When the Bureau could not find any record of the taxpayer's 2005 through 2008 Idaho individual income tax returns, the taxpayer was sent a letter advising her of the missing returns and asking her for an explanation. The taxpayer did not respond.

The Bureau requested, and received, income information from the [Redacted] in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077. Those records indicated that the taxpayer's income for the years in question exceeded the filing requirements of Idaho Code § 63-3030. Because the taxpayer did not file her state income tax returns, the Bureau prepared provisional returns and issued an NODD. The NODD was based on information obtained from the [Redacted] and records retained by the Commission. The

taxpayer protested the Bureau's determination. The taxpayer stated in her appeal letter that due to multiple reasons, the figures used by the Bureau were inaccurate. She also stated she was in the process of working with a CPA and a tax attorney to get all unfiled tax returns filed. To date, no returns have been received for the aforementioned years.

The Idaho resident individual income tax returns the Bureau prepared on behalf of the taxpayer were based on income information gleaned from the taxpayer's [Redacted] income records and the records retained by the Commission. The filing status of single was used to determine the taxpayer's Idaho income tax responsibility. For taxable years 2005 through 2007, the Bureau determined the amount of Idaho income tax due based on the adjusted gross income shown on the taxpayer's [Redacted] income tax return. Withholding in the amount \$653 and \$584 for taxable years 2006 and 2007 respectively, was allowed to offset the amount of Idaho income tax due. For taxable year 2008, the taxpayer received income on form 1099 Misc, while operating a business, [Redacted]. The Bureau used the 1099 income and income reported to the taxpayer on form W-2 to arrive at Idaho adjusted gross income. To offset a portion of the Idaho income tax due, a deduction was allowed for withholding in the amount of \$512 and a deduction for employer wages in the amount of \$50,173, the amount of payroll reported to Department of Labor.

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). The taxpayer did not meet her burden. The taxpayer stated that the Bureau's income figures were inaccurate. However, it is the taxpayer's responsibility, and the burden rests upon her to disclose her receipts and claim her proper deductions. United States v. Ballard,

535 F.2d 400 (1976). The Commission recognizes that the taxpayer may have had business expenses to offset her income; yet, if the taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and the taxpayer must bear her misfortune. Burnet v. Houston, 283 U.S. 223, 51 S. Ct. 413 (1931). Since the taxpayer failed to meet her burden, the Commission finds the adjusted gross income amount for taxable years 2005 through 2008, prepared by the Bureau, is a reasonable representation of the taxpayer's Idaho adjusted gross income based upon the information available.

The taxpayer has provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable years 2005 through 2008. Therefore, the Commission upholds the Bureau's determination of the taxpayer's Idaho taxable income.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated January 31, 2011, and directed to [Redacted], is hereby APPROVED and MADE FINAL.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$ 718	\$ 180	\$ 301	\$ 1,199
2006	8,196	2,049	2,925	13,170
2007	7,648	1,912	2,196	11,756
2008	19,347	4,837	4,313	<u>28,497</u>
			TOTAL DUE	<u>\$54,622</u>

Interest is calculated through September 5, 2014.

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 \_\_\_\_\_ 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.