

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 26204
)
)
Petitioners.) DECISION
)
_____)

On January 10, 2014, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] and [Redacted] (taxpayers) proposing additional income tax, penalty, and interest for taxable year 2009 in the total amount of \$136. The taxpayers filed a Married, filing joint tax return in taxable year 2009, but have since separated. An NODD was sent to each at their respective addresses.

On January 20, 2014, [Redacted] filed a timely appeal and petition for redetermination. [Redacted] did not appeal the NODD. Neither taxpayer responded to the Commission’s hearing rights letter nor have they provided anything further for the Commission to consider. The Commission, having reviewed the file, hereby issues its decision.

[Redacted] The Bureau reviewed the changes [Redacted] and determined the taxpayers’ Idaho income tax return should be corrected as well. The Bureau adjusted the taxpayers’ 2009 Idaho income tax return and sent them each a Notice of Deficiency Determination. [Redacted] appealed the Bureau’s determination.

In her protest letter, [Redacted] stated that the omitted income was that of her now ex-husband and she felt that he should be responsible for paying the tax.

Idaho Code § 63-3031 sets forth authority regarding joint returns and the liability which lies therein. It states in pertinent part:

If a joint return is made, the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

Pursuant to the taxpayers filing a joint return, the state of Idaho has the right to hold the taxpayers jointly and severally liable. The state of Idaho did not subsequently surrender any of those rights. One spouse may have a cause of action against the other if they are caused to pay an amount to the state of Idaho, contrary to an agreement between the parties to the return. However, the state remains in a position to hold the spouses jointly and severally liable. Joint and several liability simply means the state may collect any portion of the liability up to the entire amount from either spouse.

Idaho Code § 63-3002 states the intent of the Idaho Legislature regarding the Idaho Income Tax Act. [Redacted].

Since the taxpayer did not respond to the Commission's letter, the Commission has no additional information on which to make its decision. As previously stated, a change was made to the taxpayers' [Redacted] taxable income. Idaho Code § 63-3002 states that Idaho taxable income is to be identical to [Redacted] taxable income.

The taxpayers have not provided anything to show that their [Redacted] taxable income was reduced to the amount they reported on their Idaho income tax return. In Idaho, it is well established that a Commission deficiency notice is presumed to be correct, and the taxpayer bears the burden of showing 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); Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Therefore, the Commission must uphold the Bureau's adjustment to the taxpayers' 2009 Idaho income tax return.

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

THEREFORE, the Notice of Deficiency Determination dated January 10, 2014, and directed to [Redacted] and [Redacted], is hereby APPROVED and MADE FINAL.

IT IS ORDERED that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$110	\$10	\$20	\$140

Interest is calculated through December 14, 2014.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' 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.

An explanation of the taxpayers' 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.