

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|-------------------------------------------|---|--------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 1-355-034-624 |
| [Redacted] , |) | |
| |) | |
| Petitioner. |) | DECISION |
| <hr style="width: 40%; margin-left: 0;"/> |) | |

On October 15, 2014, the Tax Discovery Bureau (Bureau) 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 year 2011 in the total amount of \$5,228.

A timely protest and petition for redetermination was filed by the petitioner. An informal hearing has not been requested by the petitioner. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The petitioner and her husband failed to file their 2011 Idaho individual income tax return. Because Commission records showed the petitioners met the state income tax filing requirements and had not filed their Idaho income tax return for 2011, the Bureau attempted to contact them for clarification. The petitioners did not respond.

The Bureau requested and received a transcript of the petitioners' federal income records from the Internal Revenue Service (IRS). The information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

The Bureau prepared the missing Idaho return on behalf of the petitioner and sent her an NODD. The petitioner appealed the NODD, stating in her letter that she was "awaiting documentation to effectively complete the return." The Bureau acknowledged the protest and allowed the petitioner additional time, in which to gather information and submit the missing return. When the return did not arrive, the file was transferred to the

Legal/Tax Policy Division for administrative review. The petitioner did not respond to a letter from the tax policy specialist that outlined her appeal rights and has not submitted an Idaho individual income tax return for taxable year 2011. The Commission, believing the petitioner has had more than an adequate amount of time in which to file her return, or provide additional documentation, hereby decides the matter based on the information presently in the file.

The information obtained from the IRS along with Commission records, show the petitioner and her husband had income in excess of the filing requirement. The Commission issued an NODD to the petitioner and her husband based on the income information obtained from the IRS and that found in Commission records.

According to the IRS, neither the taxpayer, nor her spouse, filed a federal income tax return for 2011. If a husband and wife elect to file a joint return for federal purposes, they are required to file a joint return for state purposes. When the election to file a joint return wasn't made on the federal return, the Commission must issue assessments using the filing status of Married, Filing Separate with income and deductions equally divided between spouses according to Idaho's community property laws.

The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The petitioner has provided nothing that would dissuade the Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for taxable year 2011.

THEREFORE, the Notice of Deficiency Determination dated October 15, 2014, and directed to **[Redacted]** , is hereby APPROVED and MADE FINAL.

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

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 2011 | \$3,882 | \$971 | \$640 | \$5,493 |

Interest is computed through August 31, 2016.

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 _____ 2016.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2016, 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.
