

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)

[Redacted],)

Petitioner.)

DOCKET NO. 0-365-840-384

DECISION

On August 29, 2019, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] (Petitioner), proposing income tax, penalty, and interest for tax years 2010 through 2017, in the total amount of \$5,268.

On October 31, 2019, Petitioner filed a timely appeal and petition for redetermination of the Notice. The Tax Appeals Unit at the Tax Commission sent Petitioner a letter outlining the options for redetermination of the Notice. Petitioner did not respond. Therefore, the Tax Commission issues a final decision based on the information available.

Background and Audit Findings

According to the facts submitted, Petitioner, an Idaho resident, did not file Idaho individual income tax returns for the referenced tax years. The Bureau sent a letter to Petitioner requesting that she file her past due tax returns. Petitioner did not respond. Therefore, the Bureau used income information reported by third parties to calculate Petitioner's taxable income and allowed credit for Idaho withholding reported by employers. The Bureau used a filing status of single and one exemption for each tax return. For tax years 2013, 2014, and 2016, the Bureau included in taxable income cancelation of credit card debt income of \$10,204, \$5,538, and \$7,832, respectively.

Petitioner filed a timely appeal and petition for redetermination of the Notice. Petitioner did not dispute that she was required to file Idaho individual income tax returns for the referenced

tax years or that she had taxable wages. However, Petitioner disagreed with the inclusion of cancellation of credit debt income. Petitioner argued she did not earn the money and that the credit card debt was her deceased ex-husband's debt.

Under Internal Revenue Code section 61(a)(11), the reduction or cancellation of indebtedness generally results in cancellation of debt income to the debtor. There are exceptions to the rule for bankruptcy, insolvency, qualified farm debt, qualified real property business debt, and home mortgage debt (Internal Revenue Code section 108).

Accordingly, based on the facts presented, the cancellation of credit card debt is income under Internal Revenue Code section 61(a)(11). Petitioner argues that the income was her ex-husbands. Petitioner's argument does not relieve her from the liability.

First, according to the Form 1099-Cs, Cancellation of Debt, Petitioner was the debtor. The forms do not include anyone else's name or social security number. Second, Idaho is a community property state (Idaho Code sections 32-901 through 32-929). Even if Petitioner's ex-husband incurred the debt and the debt was in his name, Petitioner could still be liable. Third, Petitioner has not provided her ex-husbands name or social security number, or the years in which they were married.

On appeal, a deficiency determination issued by the Tax Commission "is presumed to be correct, and the burden is on the taxpayer to show that the Commission's decision is erroneous." *Parker v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Tax Commission requires Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioner did not provide adequate evidence. As a result, the Commission will uphold the Notice.

The Bureau added interest and penalty to the income tax deficiency. The Commission reviewed those additions, found both to be appropriate per Idaho Code sections 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through July 20, 2020 and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated August 29, 2019, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2010	\$194	\$49	\$70	\$313
2011	175	44	56	275
2012	216	54	61	331
2013	985	246	247	1,478
2014	682	171	144	997
2015	339	85	58	482
2016	803	201	107	1,111
2017	286	72	29	387
				<u>\$5,374</u>

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

An explanation of Petitioner's right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2020.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2020 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:

Receipt No.

[Redacted]
