

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|-------------------------------------------|---|--------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 0-420-201-472 |
| |) | |
| Petitioner. |) | DECISION |
| <hr style="width: 45%; margin-left: 0;"/> |) | |

(Petitioner) protested the Notice of Deficiency Determination (Notice) dated March 15, 2023. Petitioner disagrees with the Tax Discovery Bureau’s (Bureau) determination of her requirement to pay Idaho income tax for tax years 2015 through 2017. Petitioner stated she had filed bankruptcy and was unsure if she would still owe taxes on her income. The Tax Commission has reviewed the matter and upholds the Notice, as modified by the Bureau, for the reasons stated below.

Background

Petitioner was, at all times relevant to this matter, a resident of Idaho. However, she failed to file Idaho income tax returns for each of the years here at issue. The Bureau sent Petitioner a “Forgot to File” letter notifying her that her Idaho returns for tax years 2015 through 2017 were not in Tax Commission records. Petitioner did not respond. Therefore, the Bureau obtained income information from third-party sources and prepared income tax returns for Petitioner, issuing her a Notice.

Petitioner protested the Notice. She did not dispute her requirement to file Idaho returns for the years shown in the Notice, but instead questioned whether she needed to pay the amount shown as she recently filed Chapter 7 bankruptcy. The Bureau acknowledged Petitioner’s protest and informed her that because the returns were unfiled at the time of the bankruptcy, and remain unfiled, bankruptcy did not relieve her of the tax debt.

Several months after submitting her protest, Petitioner filed her 2015 return. The Bureau sent the return to processing and sent Petitioner a letter cancelling the Notice for tax year 2015, and that year will not be mentioned further in this decision.

When Petitioner did not provide returns for the remaining years shown in the Notice, the Bureau referred the matter to the Tax Commission's Appeals Unit (Appeals) for administrative review.

Appeals reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a Notice. Petitioner did not respond and has yet to file tax returns for tax years 2016 or 2017. Petitioner has had more than ample time to prepare and file the missing returns. Therefore, the Tax Commission decides this matter based upon the information available.

Law and Analysis

Idaho Code section 63-3030 provides the income thresholds for filing Idaho individual income tax returns. The information gathered by the Bureau clearly shows that Petitioner received income during the years in question that exceeded the threshold amount for filing Idaho income tax returns.

Petitioner does not deny her requirement to file Idaho income tax returns for tax years 2016 and 2017. Instead, Petitioner questions whether she is still responsible for the tax due shown in the Notice because of her Chapter 7 bankruptcy.

Upon filing a bankruptcy, an automatic stay is imposed by section 362 of the U.S. Bankruptcy Code (USC), which halts some actions by creditors to collect against the debtor and the debtor's property. However, an exception exists as to the Idaho State Tax Commission for the following activities, as set forth in 11 USC section 362(b)(9):

- (A) an audit by a governmental unit to determine tax liability;
- (B) the issuance to the debtor by a governmental unit of a notice of tax deficiency;

- (C) a demand for tax returns; or
- (D) the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect unless such tax is a debt of the debtor that will not be discharged in the case and such property or its proceeds are transferred out of the estate to, or otherwise revested in, the debtor).

In the present matter, the taxes under appeal are for tax years 2016 and 2017, which ended before Petitioner filed bankruptcy in 2021. Because the returns for tax years 2016 and 2017 were unfiled at the time of the bankruptcy (and remain unfiled) the taxes were not (and will not be) discharged per Federal Bankruptcy code. Petitioner's bankruptcy does not extinguish the proposed tax debt shown in the Notice.

Conclusion

Petitioner received income in taxable years 2016 and 2017 that exceeded the threshold for filing Idaho income tax returns. Petitioner has a requirement to file Idaho income tax returns and her Chapter 7 bankruptcy does not relieve her of this requirement. Petitioner has yet to file the missing returns, nor has she provided any documentation to show that the returns the Bureau prepared for her are incorrect. The Tax Commission reviewed those returns and found them reasonable based on the information available. Therefore, the Tax Commission upholds the Notice.

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

THEREFORE, the Notice dated March 15, 2023, directed to _____ as modified by the Bureau, is APPROVED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest (calculated to January 19, 2024):

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 2016 | \$518 | \$130 | \$132 | \$780 |
| 2017 | 300 | 75 | 67 | 442 |
| | | | TOTAL DUE | \$1,222 |

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

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

DATED this _____ day of _____ 2023.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2023,
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.
