

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-757-974-016
)	
)	
Petitioners.)	DECISION
)	

The Tax Commission reviewed the case involving _____ (Petitioner-husband) and _____ (Petitioner-wife) (jointly, Petitioners) for tax year 2017 and hereby issues its final decision upholding the Notice of Deficiency Determination (Notice) dated November 10, 2022. This means Petitioners need to pay \$4,192 of tax, penalty, and interest for tax year 2017. The Tax Commission DEMANDS immediate payment of this amount.

Background

Petitioners filed a joint Idaho individual income tax return for tax year 2017 as Idaho residents. The Tax Commission’s Income Tax Audit Bureau (Audit) received information showing changes to Petitioners’ 2017 federal return due to audit adjustments made by the Internal Revenue Service (IRS). The IRS decreased Petitioners’ itemized deductions, specifically “job expenses and certain miscellaneous deductions.”

Petitioners did not file an amended state return to update their Idaho taxable income, so Audit adjusted their 2017 Idaho return to match the change made by the IRS and issued billing letters on September 29, 2022 (the couple’s divorce was finalized in 2019; each Petitioner was sent a separate copy of all correspondence). Petitioners did not respond to the billing letters, so Audit issued the Notice on November 10, 2022. Both Petitioners responded separately.

Petitioner-wife stated that she had submitted Form 8857, *Request for Innocent Spouse Relief*, to the IRS in 2019 and again in 2021. She did not indicate any objection to the adjustments; rather, she stated that the debt belonged to Petitioner-husband and was not hers.

Petitioner-husband responded originally by telephone, saying that he was a general contractor and should be allowed the expenses he claimed. In a subsequent written response, he argued that he was never audited in 2017 or 2018, that all his substantiating documents were in his truck when it was repossessed, and that he was incarcerated in 2018. He asked that the Tax Commission reconsider the penalty. He also stated he wrote a letter to the IRS, “and it was determined there was no fault.”

Audit sent letters acknowledging the protest and stating “We checked with IRS data we have on file, but the IRS did not reverse its decision for your audit. We have to follow the IRS decisions” while also inviting Petitioners to withdraw the protest. When they did not, Audit forwarded the matter to the Tax Commission’s Appeals unit (Appeals) for administrative review. On April 11, 2023, Appeals sent Petitioners letters outlining the available options for redetermining a protested Notice. Petitioners did not respond. In the absence of any additional information, the Tax Commission decided this matter based on the information currently available.

Law and Analysis

Idaho Code section 63-3002 states that it is the intent of the Idaho Legislature, insofar as possible, to make the Idaho Income Tax Code identical to the Internal Revenue Code in the way taxable income is determined. Idaho Code section 63-3069 states “Upon final determination of any deficiency or refund of federal taxes, the taxpayer is required to send written notice to the state tax commission within one hundred twenty (120) days of the final determination.” Idaho Income Tax Administrative Rule 890.02.a states “Written notice will include copies of all Revenue

Agents' reports and any other documents and schedules to clarify the adjustments to taxable income." Failure to provide this written notice results in the taxpayer being subject to the negligence penalty under Idaho Code section 63-3046. Based on the wording of Idaho Code and the administrative rules, the Idaho Legislature clearly intended that any relevant changes made to a taxpayer's federal tax return be reflected on his or her Idaho state tax return.

Petitioner-husband argues that the deductions denied by the IRS should be allowed because of the nature of the expenses he incurred and the work he was engaged in. He stated that he had documentation for the expenses, but it was lost due to factors beyond his control. In this case, the IRS changed Petitioners' federal taxable income, and that change affects Idaho taxable income. Audit did not directly examine Petitioners' claim for unreimbursed expenses; instead, Audit applied adjustments made to Petitioners' federal tax return by the IRS to their state tax return. Petitioners have not presented any evidence to refute the change or to prove that the IRS has reversed its decision. Therefore, the Tax Commission determined that the adjustments shown in the Notice are necessary.

Audit added a 5% negligence penalty to Petitioners' tax deficiency. Petitioner-husband requested reconsideration of this penalty. Petitioners did not provide the required written notice of adjustments to their 2017 federal income tax return. In accordance with Idaho Code sections 63-3069 and 63-3046, the Tax Commission finds the negligence penalty to be appropriate.

Audit added interest to Petitioners' tax deficiency. The Tax Commission reviewed this addition and finds it to be appropriate and in accordance with Idaho Code section 63-3045.

Petitioner-wife argues that the tax, penalty, and interest resulting from the change to the 2017 joint return is the sole responsibility of Petitioner-husband. Idaho Code section 63-3031 relates to jointly filed income tax returns. Subsection (b)(3) states "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.” Joint and several liability means that the full amount of any tax, penalty, or interest can be collected from either spouse who signed a jointly filed tax return. Idaho Code section 63-3050A provides that, when the IRS grants relief to an individual from joint and several liability, the state tax commission will recognize and honor it for state income tax purposes, as well. Petitioner-wife applied to the IRS for relief from joint and several liability using Form 8857, *Request for Innocent Spouse Relief*. She submitted a letter to Audit dated February 7, 2023, from the IRS regarding her application. This letter reads in part, “Based on the qualification requirements listed below we *propose* (emphasis added) to grant full relief under Internal Revenue Code Section 6015(f).” The letter indicates it is a preliminary determination subject to appeal by Petitioner-husband. The Tax Commission has not received confirmation of a final determination from the IRS granting Petitioner-wife relief and will therefore continue to hold her liable for any amount due resulting from the change to Petitioners’ 2017 joint income tax return.

Conclusion

The Internal Revenue Service changed Petitioners’ federal taxable income in a way that affects their Idaho taxable income. Petitioners failed to file an amended Idaho return or provide a copy of the IRS determination. The Tax Commission finds that the adjustments in the Notice issued by Audit are necessary. Petitioners have the burden of proving a Notice issued by the Tax Commission is incorrect. Petitioners did not meet that burden.

THEREFORE, the Notice dated November 10, 2022, and directed to
is hereby AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2017	\$3,304	\$165	\$723	\$4,192

Interest is calculated through January 2, 2024.

An explanation of Petitioners' 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.

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