BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 19344
[REDACTED]	)	
Petitioner.	)	DECISION
	)	
	)	

This is an individual income tax case. On January 25, 2006, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted](taxpayer), proposing income tax, penalty, and interest for the 2003 taxable year in the total amount of $4,516.

On March 17, 2006, the taxpayer filed a document treated as a timely appeal and petition for redetermination. The taxpayer did not request a hearing or submit any additional information after March 17, 2006, for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer failed to file a 2003 Individual Income Tax Return. The Tax Discovery Bureau (Bureau) sent the taxpayer a letter notifying him of the missing return. The taxpayer did not respond. The Bureau obtained income information [Redacted], determined the taxpayer was required to file an Idaho income tax return, prepared a return for the taxpayer, and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer, calling himself a Declarant, sent a letter dated March 17, 2006, and wrote that "Declarant has reviewed Declarant's files and records and can find no file or record that Declarant can rely upon to determine that Declarant has a legal, lawful duty, obligation, liability or debt with IDAHO STATE TAX COMMISSION." The taxpayer then requested copies of documents showing the authority of the Idaho State Tax Commission to require him to file

returns and pay taxes owed under the law. On March 28, 2006 the Tax Commission's Public Records Custodian responded to the request for copies of public records.

The Bureau recognized the taxpayer's statements as those akin to tax protestor movements. Consequently, the Bureau referred the matter for administrative review. The Tax Commission reviewed the matter and sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. The Tax Commission sent another letter giving the taxpayer additional time to choose one of the two options. The taxpayer again did not respond.

The Tax Commission reviewed the March 17, 2006, letter the taxpayer provided and found it was typical of arguments presented by tax protestor groups. The arguments raised by the taxpayer appear to question the authority of the Tax Commission to require him to file a return and pay taxes due.

The United States Supreme Court discussed the States' authority to tax its residents and nonresidents earning income within the state. In Shaffer v. Carter, 252 U.S. 37, 40 S.Ct. 221 (1920), the court stated,

> In our system of government the states have general dominion, and, saving as restricted by particular provisions of the federal Constitution, complete dominion over all persons, property, and business transaction within their borders; they assume and perform the duty of preserving and protecting all such persons, property, and business, and, in consequence, have the power normally pertaining to governments to resort to all reasonable forms of taxation in order to defray the governmental expenses. Certainly they are not restricted to property taxation, nor to any particular form of excises. In well-ordered society property has value chiefly for what it is capable of producing, and the activities of mankind are devoted largely to making recurrent gains from the use and development of property, from tillage, mining, manufacture, from the employment of human skill and labor, or from a combination of some of these; gains capable of being devoted to their own support, and the surplus accumulated as an increase of capital. That

> the state, from whose laws property and business and industry derive the protection and security without which production and gainful occupation would be impossible, is debarred from exacting a share of those gains in the form of income taxes for the support of the government, is a proposition so wholly inconsistent with fundamental principles as to be refuted by its mere statement. That it may tax the land but not the crop, the tree but not the fruit, the mine or well but not the product, the business but not the profit derived from it, is wholly inadmissible.

In Cohn v. Graves, 300 U.S. 308, 57 S.Ct. 466 (1937), the court reiterated the States' taxing authority,

> That the receipt of income by a resident of the territory of a taxing sovereignty is a taxable event is universally recognized. Domicil itself affords a basis for such taxation. Enjoyment of the privileges of residence in the state and the attendant right to invoke the protection of its laws are inseparable from responsibility for sharing the costs of government. 'Taxes are what we pay for civilized society,' see Compania General de Tabacos v. Collector, 275 U.S. 87, 100, 48 S.Ct. 100, 105, 72 L.Ed. 177. A tax measured by the net income of residents is an equitable method of distributing the burdens of government among those who are privileged to enjoy its benefits.

Therefore, by virtue of living within the boundaries of the state of Idaho or by working within those boundaries, the state of Idaho has the right to impose a tax on the income earned within its borders.

The arguments presented by the taxpayer do not persuade the Tax Commission that the taxpayer does not have an obligation to file an Idaho income tax return. Furthermore, the taxpayer has provided no documentation or information to show that the returns prepared by the Bureau are incorrect. It is well settled in Idaho that a Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is

erroneous. Id. Since the taxpayer has failed to meet this burden, the Tax Commission finds that the amount shown due on the Notice of Deficiency Determination is true and correct.

The Bureau also added interest, which interest will continue to accrue until the tax liability is paid pursuant to Idaho Code section 63-3045(6), and penalty to the taxpayer's tax deficiency. The Tax Commission finds those additions appropriate as provided for in Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated January 25, 2006, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

YEAR	TAX	PENALTY	INTEREST	TOTAL
2003	$3,299	$825	$392	$4,516

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

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

_____

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2006, 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.

_____