

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Petition for)	
Redetermination of)	DOCKET NO. 12639
)	
[Redacted],)	DECISION
)	
Petitioner.)	
_____)	

In 1997, the Tax Discovery Bureau of the State Tax Commission (Bureau) began an investigation into the tax liability of [Redacted], (taxpayer). On December 16, 1997, the taxpayer wrote a letter protesting any Notice of Deficiency the Bureau might issue. On March 13, 1998 the Bureau issued a Notice of Deficiency Determination to the taxpayer proposing additional income taxes, penalties, and related interest in the total amount of \$12,391 for the periods January 1, 1991 through December 31, 1993 and January 1, 1995 through December 31, 1996.

The taxpayer did not request a hearing. Instead he provided the Commission substantial information in support of his protest. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The taxpayer lives in [Redacted], Idaho. He filed a 1994 state resident income tax return, but did not file for the years 1991 through 1993, and 1995 through 1996. [Redacted]. Relying on this information, the Bureau calculated a state tax liability for these years. For 1996, the Bureau used an average of the adjusted gross income for the earlier years. The Bureau then issued the Notice of Deficiency Determination.

The taxpayer's protest raises a number of arguments as to why he is not required to file a tax return. However, these arguments are disjointed, unorganized, and repetitive. The taxpayer has submitted a number of writings which are either prepared by someone else or appear to be

taken from other material prepared by someone else. Basically, it appears the taxpayer's argument is that the income tax is a direct tax and a direct tax on income is barred by the United States Constitution. The taxpayer seems to suggest that a direct tax cannot be imposed on the exercise of a fundamental right, and the right to work is a fundamental right. The taxpayer's arguments are simply without merit.

The 16th Amendment to the Constitution ratified in 1913 states that, "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." The language is very clear and specific and holds that taxes can be imposed on incomes. There is no limitation that only direct taxes can be imposed on incomes. Prior to the adoption of the 16th Amendment, the constitutionality of an income tax was determined under Article I, Section 9, Clause 4, which states that, "No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken." In *Springer v. United States*, 102 U.S. 586 (1880), the United States Supreme Court held that an income tax was an excise tax and not a direct tax, and thus constitutional. However, the Court revisited the issue in *Pollock v. Farmer's Loan and Trust Co.*, 157 U.S. 429 (1895). There, the Court began with a premise that a tax on the income from property is the same as a tax on the value of the property itself, a premise completely inconsistent with every other Supreme Court decision before or since. The Court then concluded that a tax on rents received from real property was a direct tax and unconstitutional unless apportioned as required by Article I, § 9, Clause 4. The *Pollock* Court made very clear that only a tax on income earned from property was a direct tax and other forms of income were not. Thus, the Court did not completely overrule *Springer*. The

Court, in fact, held a tax on earnings from the manufacture and sale of goods was not a direct tax and therefore did not have to be apportioned. *Flint v. Stone Tracy Co.*, 220 U.S. 107 (1911).

The *Pollack* decision had limited the ability of the Congress to tax incomes, because incomes from property (rents, interest, and dividends) could only be taxed if apportioned, but other types of incomes (wages, salaries, and other earned incomes) could be taxed without apportionment. Thus, the 16th Amendment was proposed by Congress and ratified by the states, so that Congress could tax incomes “from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.”

The Idaho Income Tax Act is patterned after the federal act. See Idaho Code §§ 63-3002 and 63-3004. Accordingly, since the federal income tax provisions do not offend the Constitution, neither does the state income tax.

WHEREFORE, the Notice of Deficiency Determination dated March 13, 1998, is hereby APPROVED, AFFIRMED, and MADE FINAL .

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest for the periods January 1, 1991 through December 31, 1993 and January 1, 1995 through December 31, 1996:

<u>Year</u>	<u>Tax</u>	<u>Penalty</u>	<u>Interest</u>	<u>Total</u>
1991	\$1,599	\$400	\$1,370	\$ 3,369
1992	1,655	412	1,118	3,185
1993	1,571	393	990	2,954
1995	1,736	434	811	2,981
1996	1,253	313	481	<u>2,047</u>
			TOTAL DUE	<u>\$14,536</u>

Interest is calculated through November 30, 2001 and will continue to accrue at \$1.71 per day until paid.

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

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

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2001, 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. [Redacted]
[REDACTED][REDACTED]

ADMINISTRATIVE ASSISTANT 1