

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 13532
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On March 29, 1999, the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) asserting Idaho income taxes, penalty and interest in the amount of \$1,354 for the 1992 and 1993 taxable years. On April 4, 1999, the taxpayer filed a timely appeal and petition for redetermination with the Tax Commission. The taxpayer did not request an informal conference. The Tax Commission, having reviewed the file, hereby issues its decision.

This is a nonfiler case. The taxpayer has not filed valid Idaho income tax returns for at least the 1992 and 1993 taxable years. While the taxpayer has not filed valid Idaho income tax returns for either year at issue, he did submit to the Tax Commission Idaho income tax forms showing no income information. On each line of these Idaho income tax forms Mr. [Redacted] wrote “none,” “N/A,” or “Object Witness Against Self.” Such returns do not constitute valid Idaho income tax returns. See Rule 150 of the Tax Commission Administration and Enforcement Rules; Idaho State Tax Commission v. Peterson, 107 Idaho 260, 261, 688 P.2d 1165, 1166 (1984) (“[a] return which supplies none of the requested financial information and asserts broad and unspecific claims is tantamount to a failure or refusal to file.”) (Quoting Department of Revenue v. Welch, 651 P.2d 721 (Or. 1982)).

Information obtained by the Tax Commission’s Tax Discovery Bureau indicated that Mr. [Redacted] earned gross income in 1992 and 1993 in excess of the minimum filing amounts set out in Idaho Code § 63-3030(a)(1)(A) as that section read during the taxable years at issue. The

information relied upon by the Commission's audit staff was "monthly reports" filed by the taxpayer with the Idaho Department of Correction's Office of Probation and Parole. Those monthly statements indicated, among other things, that Mr. [Redacted] earned \$14,500 in 1992 and \$11,930 in 1993. The Notice of Deficiency Determination that is the subject matter of this administrative protest was issued to Mr. [Redacted] based on the income information obtained from the Idaho Department of Corrections.

In response to the Notice of Deficiency Determination, Mr. [Redacted] has claimed that the state of Idaho and the Idaho State Tax Commission have no jurisdiction over him in this matter. Mr. [Redacted] is wrong. It has long been established that a state may impose an income tax on the income earned by its residents. Lawrence v. State Tax Comm., 286 U.S. 276, 279 (1932); New York ex rel Cohn v. Graves, 300 U.S. 308, 312-313 (1937). Unfounded claims of immunity from a state's authority to tax the income of its residents have been consistently rejected by courts throughout the United States. See, e.g., Tracy v. Wisconsin Dept. of Revenue, 394 N.W.2d 756 (Wis. Ct. App. 1986). In State v. Staples, 112 Idaho 105 (Ct. App. 1986), the Idaho Court of Appeals made the following comment:

[The defendant's] appeal is broadly based upon a philosophical notion that he is a "sovereign individual" and that unlike a corporation – which is a creature of statute – he may decide when to subject himself to the authority of the state. However, our society does not exist in a "state of nature." Thomas Paine, one of the founders of the American republic, noted that "government [is] rendered necessary by the inability of moral virtue to govern the world." Oliver Wendell Holmes struck a similar chord when he said, "Taxes are what we pay for civilized society." Recently our Court observed: "individuals must sacrifice a part of their 'liberty' in order to empower a government to regulate, through passage and enforcement of laws necessary for the general public welfare."

Citizens may not choose to receive the benefits of a civilized society without sharing the burdens. Taxation is one of those burdens. All wage earners in Idaho are subject to income taxes. [The defendant] is no exception.

Id. at 107 (citations omitted).

In addition to the broad power of the state of Idaho to tax the income earned by its residents, the Idaho Legislature has also authorized the Idaho State Tax Commission to assert an income tax deficiency where a taxpayer subject to the Idaho income tax has failed or refused to file a valid tax return. See Idaho Code §§ 63-105(1) and 63-3045(1)(a). Mr. [Redacted] claim that these provisions of Idaho law somehow do not apply to him is hereby rejected. Since Mr. [Redacted] has provided no other colorable legal or factual argument regarding the accuracy of the

March 29, 1999 Notice of Deficiency Determination, that determination is upheld in its entirety. See Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984) (a determination of the State Tax Commission is presumed to be correct); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986) (a State Tax Commission deficiency notice is presumed to be correct and the burden is on the taxpayer to show that the deficiency is erroneous).

WHEREFORE, the Notice of Deficiency Determination dated March 29, 1999, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1992	\$493	\$123	\$328	\$ 944
1993	286	72	161	<u>519</u>
TOTAL AMOUNT DUE				<u>\$1,463</u>

Interest is calculated through March 31, 2001, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) 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

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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]

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ADMINISTRATIVE ASSISTANT 1