

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14775
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On April 13, 2000, the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), asserting income tax, penalty and interest in the amount of \$2,030 for the taxable years 1996 and 1998.

On May 5, 2000, the Idaho State Tax Commission received an undated Affidavit of Exemption from State Income Taxes from the taxpayer, which was treated as a timely filed appeal and petition for redetermination. The taxpayer elected not to participate in an informal conference or submit additional information for the Commission's consideration. As a consequence, this decision is based on the information currently contained in the Commission's file. The Commission has reviewed the file, is advised of its contents, and now issues its decision. For the reasons set forth below, the Commission affirms the deficiency determination with interest updated through May 4, 2001.

This is a nonfiler case. The taxpayer has not filed Idaho income tax returns for taxable years 1996 and 1998.

Idaho Code § 63-3030 provides that every resident individual having gross income, as defined by Section 61(a) of the Internal Revenue Code, exceeding a specified dollar amount is required to file an Idaho individual income tax return. For example, individuals having a gross income of \$3,300 or more (\$5,400 or more if filing a joint return) for the 1999 taxable year were required to file Idaho individual income tax returns.

Based on the information gathered, the Tax Discovery Bureau staff determined the taxpayer was an Idaho resident for taxable years 1996 and 1998. The staff further determined the taxpayer had a filing requirement for the taxable years 1996 through 1998.

In February of 2000, the Tax Commission contacted the taxpayer by mail to request additional information from which to determine if he, in fact, had an Idaho income tax filing requirement. The taxpayer responded with an Affidavit of Exemption from State Income Taxes stating he was a “citizen” of Idaho during the taxable years in question and as such he was not required to pay Idaho individual income taxes on the wages he received. Recognizing wages as taxable income, the Tax Commission prepared provisional returns and issued the Notice of Deficiency that is the subject of this protest.

The taxpayer responded to the Notice of Deficiency by submitting the same Affidavit of Exemption from State Income Taxes that he previously submitted. In a cover letter, the taxpayer summarized his position again stating he was a citizen of Idaho and as such he was not required to pay Idaho individual income taxes. In both instances, the affidavit was identical and failed to provide any factual information regarding the taxpayer's residency status, filing status, income or deductions. Instead, the "affidavit" contained only general conclusions of law upon which the taxpayer claimed to be exempt from Idaho income tax.

As best as can be surmised from the document submitted by the taxpayer, he has raised several tax protestor arguments that can be categorized into two primary arguments whereby the taxpayer claims to be exempt from Idaho income tax. This decision will address the taxpayer's primary arguments.

1. Definition of Taxable Income.

The taxpayer claims he is exempt from taxation under the Idaho Income Tax Act because he is “not involved in any revenue taxable activities.” During the years in question, Idaho Code

§ 63-3022 defined the term "taxable income" to mean "'taxable income' as defined in Section 63 of the Internal Revenue Code, adjusted as provided" in the Idaho Income Tax Act. Section 63 of the Internal Revenue Code defines taxable income as "gross income minus the deductions allowed under this chapter." Section 61 of the Internal Revenue Code provides that, except as otherwise provided in Subtitle A of the Internal Revenue Code, "gross income means all income from whatever source derived." Thus, as incorporated into the Income Tax Act by Idaho Code § 63-3022, a taxpayer is subject to Idaho income tax on his income from all sources, unless express federal or state exemptions, adjustments, or limitations apply.

The taxpayer has not provided any information to establish that his income is exempt under the Internal Revenue Code or under any other law. In fact the information gathered by the Tax Discovery Bureau demonstrates the taxpayer received wages and other income during the 1996 and 1998 tax years.

It is well settled that exemptions or exclusions from income tax are purely a matter of legislative grace and are generally construed strictly against the taxpayer. *Bingler v. Johnson*, 394 U.S. 741, 751-52 (1969); *Commissioner of Internal Revenue v. Jacobson*, 336 U.S. 28, 48-49 (1949). "[E]xemptions from taxation are not to be implied; they must be unambiguously proved." *United States v. Wells Fargo Bank*, 485 U.S. 351, 354 (1988). Here, the taxpayer has simply failed to provide adequate factual or legal basis to substantiate his claim of exemption from Idaho tax. *Id.* at 633.

2. Residency Status and Jurisdiction to Tax.

The taxpayer claims the state of Idaho is without the power or authority to impose a tax on him because, according to the taxpayer, he is a "citizen" of Idaho but he is not a resident of Idaho.

The taxpayer's convoluted logic notwithstanding; domicile itself affords a basis for a state's individual income tax. *See New York, ex rel Cohn v. Graves*, 300 U.S. 308, 312-13 (1937) ("That

the receipt of income by a resident of the territory of a taxing sovereignty is a taxable event is universally recognized. Enjoyment of the privileges of residence in the state and the attendant right to invoke the protections of its laws are inseparable from responsibility for sharing the costs of government."); *Shaffer v. Carter*, 252 U.S. 37, 52 (1920) ("[J]ust as a State may impose general income taxes upon its own citizens and residents whose persons are subject to its control, it may, as a necessary consequence, levy a duty of like character, and not more onerous in its effect, upon incomes accruing to non-residents from their property or business within the State, or their occupations carried on therein.")

Idaho Code § 63-3024 imposes an income tax on every resident individual measured by his taxable income. Resident is defined in Idaho Code § 63-3013 as any individual who has resided in the state of Idaho for the entire taxable year or who is domiciled in this state. The taxpayer concedes he was domiciled and continues to be domiciled in [Redacted], Idaho.

The Idaho Legislature has clearly set forth that the Idaho income tax applies to residents of this state; the Legislature has defined the term resident; and the taxpayer has presented no evidence to show that he is not a resident as that term has been defined. The taxpayer presented no evidence supporting his claim that he is not a resident of, or otherwise subject to the jurisdiction of, Idaho. Simply recharacterizing one's domicile in Idaho as citizenship rather than residency does not alter the clear legislative definition of residency in Idaho's statutes or Idaho's inherent ability to tax the income of its residents.

Since the taxpayer failed to provide any factual information to show the Tax Commission's provisional income tax returns were incorrect, the Commission finds the provisional returns to be a fair representation of the taxpayer's taxable income for the taxable years 1996 and 1998.

WHEREFORE, the Notice of Deficiency Determination dated April 12, 2000, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following taxes, penalty, and interest. Interest is calculated through May 4, 2001.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$988	\$247	\$317	\$1,552
1998	407	102	64	<u>573</u>
			TOTAL DUE	<u>\$2,125</u>

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.

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2001, a copy of the foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1