

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15052
[REDACTED],)	
)	DECISION
Petitioner.)	
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)	

On July 14, 2000, the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), asserting income tax, penalty and interest in the amount of \$6,270 for the taxable years 1995 through 1998, inclusive.

On September 9, 2000, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer also requested an informal conference. The Commission conducted the conference on December 19, 2000. The Tax Commission, having reviewed the file and the arguments made by the taxpayer at the informal conference, hereby issues its decision. For the reasons set forth below, the Commission affirms the deficiency determination with interest updated through June 1, 2001.

This is a nonfiler case. The taxpayer did not file Idaho income tax returns for the taxable years 1995 through 1998. Based on information obtained by the Tax Commission’s Enforcement Specialist, it appeared that the taxpayer, who lives in [Redacted], Idaho, did in fact have an Idaho income tax filing requirement for the taxable years in question.

When contacted about his apparent Idaho income tax filing requirement, the taxpayer responded by submitting standard tax protester arguments regarding his requirement to file federal and state income tax returns. The taxpayer stated he was not required to file or pay federal and Idaho income tax because: (1) he is a “sovereign American state citizen and therefore, is not subject to the tax laws of the United States, (2) his wages are not “income” subject to tax, and (3) the Idaho income tax is an unconstitutional excise tax.

The Tax Commission is not persuaded. The record before the Tax Commission reveals Mr. [Redacted] was a resident of Idaho during the taxable years 1995 through 1998 and that he earned income during those years from his employment at a [Redacted], Idaho business. Under Idaho's tax laws, he was required to file Idaho individual income tax returns and to pay the Idaho income tax shown due on those returns. Idaho Code § 63-3024. None of the arguments made by the taxpayer have convinced the Tax Commission that he is somehow immune from his legal obligation to file Idaho income tax returns and to pay his taxes.

The courts have uniformly rejected an individual's claim of "sovereignty" in an attempt to avoid federal or state income tax. United States v. Hanson, 2 F.3d 942, 945 (9th Cir. 1993); Lonsdale v. United States, 919 F.2d 1440, 1448 (10th Cir. 1990); United States v. Dawes, 874 F.2d 746, 750-751 (10th Cir. 1989); United States v. Studley, 783 F.2d 934, 937 & n.3 (9th Cir. 1986); Minovich v. Commissioner of Internal Revenue, 1994 T.C. Memo. 89. The courts also have consistently rejected an individual's claim that wages are not income subject to tax. Coleman v. Commissioner, 791 F.2d 68, 70 (1986); United States v. Lawson, 670 F.2d 923 (10th Cir. 1982); United States v. Burus, 633 F.2d 1356 (9th Cir. 1980); Mitchell v. Agents of State, 105 Idaho 419, 425 (1983); State v. Staples, 112 Idaho 105, 107 (Ct. App. 1986); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 575 (Ct. App. 1986). Likewise, the taxpayer's argument that the Idaho income tax is an unconstitutional excise tax is not supported by any relevant cases. See, Brushaber v. Union Pacific Railroad Co., 240 U.S. 1 (1916). The federal income tax of 1913 was constitutionally valid even though it imposed an unapportioned direct tax. Ratification of the Sixteenth Amendment removed the constitutional barrier against unapportioned direct taxes); Diefendorf v. Gallet, 51 Idaho 619 (1932)(The Idaho income tax, which is an excise tax and not a property tax, is constitutional).

At the informal conference held on December 19, 2000, the taxpayer argued that even if he was required to file an Idaho return for the taxable years in question, the tax shown on the Notice of Deficiency Determination was incorrect because it did not allow him an exemption for his two children, and it did not give him the proper amount of credit for Idaho income tax withheld from his wages. Unfortunately for the taxpayer, he has been unable or unwilling to provide the Tax Commission with any evidence to show that he is entitled to an additional exemption amount for two dependent children or that he is entitled to an additional credit against his Idaho income tax liability for income taxes withheld from his wages.

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 failed to meet this burden in the present case, the Tax Commission has no choice but to find that the amount shown due on the Notice of Deficiency Determination is true and correct.

WHEREFORE, the Notice of Deficiency Determination dated July 14, 2000, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$ 465	\$119	\$189	\$ 773
1996	1,244	318	401	1,963
1997	1,373	351	321	2,045
1998	1,218	311	191	<u>1,720</u>
Total Tax, Penalty and Interest (Interest is calculated through June 1, 2001)				<u>\$6,501</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.

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]
[REDACTED]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1