

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15178
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On September 5, 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 \$11,829 for the 1993 taxable year.

On November 6, 2000, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer elected not to participate in an informal conference or to submit additional information for the Commission's consideration. Therefore, 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 Notice of Deficiency Determination with interest updated through June 1, 2001.

This is a nonfiler case. The taxpayer did not file an Idaho income tax return for the 1993 taxable year. 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 1993 taxable year. When contacted about her apparent Idaho income tax filing requirement, the taxpayer responded by submitting standard tax protester arguments regarding her requirement to file federal and state income tax returns. The taxpayer apparently believes that she is not required to file or pay Idaho income tax because: (1) under her interpretation of the Internal Revenue Code she is not required to file a federal income tax return; and (2) the State Tax Commission cannot issue a Notice of Deficiency Determination and conduct a hearing regarding the

deficiency determination without violating the constitutionally required separation of powers.

The Tax Commission is not persuaded. The arguments made by the taxpayer have not convinced the Tax Commission that she is somehow immune from her legal obligation to file an Idaho income tax return and to pay her taxes.

The Idaho income tax return filing requirements are set out in Idaho Code § 63-3030. Idaho Code § 63-3030(a)(1) sets forth the filing requirements for individuals who are residents of this state. Residents with a gross income in excess of the statutory threshold amount are required to file an Idaho individual income tax return. Individuals required to file an Idaho income tax return also must pay Idaho income tax on their taxable income at the rate set forth in Idaho Code § 63-3024. The record before the Tax Commission reveals that the taxpayer was a resident of Idaho during the year in question and received income in excess of the filing threshold. Under Idaho's tax laws, the taxpayer was required to file an Idaho individual income tax return and to pay the Idaho income tax shown on that return.

The separation of powers provided in the Idaho constitution does not prohibit the Tax Commission from issuing Notices of Deficiency Determination and providing taxpayers with a hearing regarding the deficiency determination. Section 1, article II of the Idaho Constitution generally ensures a separation of powers among the various branches of government. The taxpayer asserts that because the Tax Commission is part of the executive branch of government it cannot issue notices and conduct hearings. The taxpayer argues that such actions are judicial actions.

The Commission has not engaged in judicial actions by issuing Notices of Deficiency Determination and providing taxpayers with an informal conference. An informal conference is not a judicial hearing, nor is it governed by the formalities of a courtroom hearing. The purpose of the conference is to provide taxpayers with an opportunity to show why they disagree with the

Commission's initial determination of deficiency, before the deficiency becomes an assessment.

Moreover, the Idaho Constitution expressly authorizes the actions taken by the Tax Commission. The prohibition of section 1, article II of the Idaho Constitution is qualified by the language "except as in this Constitution expressly directed or permitted." Section 12, article VII of the Idaho Constitution provides the State Tax Commission shall have such powers and perform such duties as prescribed by law. The statutory authorization for the Commission to issue a Notice of Deficiency Determination is found in Idaho Code § 63-3045. The same statute provides taxpayers with the right to an informal conference with the Commissioners or their delegate to discuss the determined deficiency.

The taxpayer's various protester arguments are unpersuasive. The Tax Commission finds that the taxpayer had an Idaho income tax filing requirement for the 1993 taxable year. The taxpayer has been unable or unwilling to provide the Tax Commission with any evidence to show that she is entitled to additional exemptions or credits against her Idaho income tax liability.

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

WHEREFORE, the Notice of Deficiency Determination dated September 5, 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:

