

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

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| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 15304 |
| [REDACTED], |) | |
| |) | DECISION |
| Petitioner. |) | |
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On November 8, 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 \$5,987 for the taxable years 1996 through 1998, inclusive.

On January 4, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer elected not to participate in an informal conference. 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 Idaho income tax returns for 1996 through 1998 taxable years. Based on information obtained by the Tax Commission’s Enforcement Specialist, it appeared that the taxpayer, who now lives in [Redacted], Washington, worked in Idaho and did in fact have an Idaho income tax filing requirement for the taxable years in question. 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 federal and Idaho income tax because: (1) she is a “sovereign American state citizen and therefore, is not subject to the tax laws of the United States, (2) federal and state taxes are based solely on “voluntary compliance,” (3) her wages are not “income” subject to tax,

and (4) the Idaho State Tax Commission has not complied with “Commercial Law” thereby invalidating the Notice of Deficiency Determination.

The Tax Commission is not persuaded. The record before the Tax Commission reveals that Ms. [Redacted] was a part-year resident of Idaho in 1996 and that she earned \$18,469 in that year from her employment at a [Redacted], Idaho school district and other sources. During the 1997 and 1998 taxable years Ms. [Redacted] resided in [Redacted] Washington, but received income from Idaho sources in excess of \$2,500.

Under Idaho’s tax laws, she was required to file an Idaho individual income tax return and to pay the Idaho income tax shown due on that return. The Idaho income tax return filing requirements are set out in Idaho Code § 63-3030. Idaho Code § 63-3030(a)(2) sets forth the filing requirements for individuals who are part-year residents or who are not residents of this state. Any part-year resident or nonresident individual who, during the taxable year, has a gross income from Idaho sources in excess of \$2,500 must file an Idaho individual income tax return. Part-year resident and nonresident individuals who are required to file an Idaho individual income tax return also must pay Idaho income tax on their taxable income at the rate set forth in Idaho Code § 63-3024.

Idaho’s statutes are in accord with the United States Supreme Court’s decision addressing a state’s constitutional ability to tax nonresident individuals. The Court held that “[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.” Shaffer v. Carter, 252 U.S. 37, 52 (1920)

None of the arguments made by the taxpayer have convinced the Tax Commission that she is somehow immune from this legal obligation to file an Idaho income tax return and to pay

her 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 taxpayer's belief that her obligation to file and pay income tax is completely voluntary is also erroneous. While both the federal and Idaho tax laws are based on honest and forthright self-reporting, this does not support the argument that these laws are optional. Lonsdale v. United States, 919 F.2d 1440, 1448 (10th Cir. 1990); Wilcox v. Commissioner, 848 F.2d 1007, 1008 (9th Cir. 1988); United States v. Witvoet, 767 F.2d 338, 339 (7th Cir. 1985). The courts also have consistently rejected a taxpayer's claim that wages are not income. 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).

The taxpayer's assertion that the "Commercial Law" governs state tax agencies also is misplaced. The law of Idaho, not an undefined "Commercial Law", governs matters concerning Idaho's individual income tax. The United State Supreme Court has long recognized that the right to tax is a crucial attribute of state sovereignty. M'Culloch v. Maryland, 17 U.S 316, 428 (1819). "The power to tax rests solely with the legislature, and is subject only to constitutional limitations." Richey v. Indiana Dept. Of State Revenue, 634 N.E. 2d, 375 (Ind. Tax Ct. 1994). The Idaho legislature authorized the Commission to issue a Notice of Deficiency Determination to taxpayers who have not met their Idaho individual income tax filing and payment obligations. Idaho Code § 63-3045. In the same statute, the legislature provided taxpayers with a hearing

before the Commission to show why they believe a determination may be in error, before the determination becomes a tax assessment. The taxpayer declined an opportunity for a hearing and instead chose to disregard Idaho law.

The taxpayer's various protester arguments are unpersuasive. The Tax Commission finds that the taxpayer had an Idaho income tax filing requirement for the 1996 through 1998 taxable years.

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 due on the Notice of Deficiency Determination is true and correct.

WHEREFORE, the Notice of Deficiency Determination dated November 8, 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:

