

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NOS. 15306 & 15237
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On October 17, 2000 and November 15, 2000, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued two Notices of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1997 and 1998 respectively in the amounts of \$535 and \$1,805, respectively.

On November 30, 2000 and January 2, 2001, the taxpayer filed timely appeals and petitions for redetermination. The taxpayer did not request a hearing and has not provided any additional documentation for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer filed a 1997 Idaho individual income tax return reporting his taxable income to be zero. However, included with his return, the taxpayer provided copies of his W-2 statements showing his earnings of \$5,622.72. The taxpayer did not have any deductions to his wages other than his personal exemption, one additional exemption, and the standard deduction. The Tax Commission corrected the taxpayer's return to properly reflect the taxpayer's wages and sent the taxpayer a notice of correction.

[Redacted]. The Bureau reviewed the changes and determined some of the changes were applicable to the taxpayer's Idaho income tax return. The Bureau made the adjustments and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer's 1998 Idaho return was filed similarly to his return for 1997. [Redacted]. [Redacted]. The Bureau adjusted the taxpayer's 1998 return and sent him a Notice of Deficiency Determination.

The taxpayer responded to both notices stating that he did not owe the tax. He was not engaged in any revenue taxable activities subject to Article I Section 8 of the U.S. Constitution. The taxpayer further stated he was not engaged in commerce within Idaho to which a tax is authorized.

In addition to his protest letters, the taxpayer sent the Bureau a letter dated April 10, 2001, stating further clarification of his protest. In that letter the taxpayer stated his employer erred in filing any informational returns on him. He stated only those who received "Federal wages" for services performed under Federal contract are liable for reporting those wages. The taxpayer provided a copy of federal Publication 15 with highlighted areas in support of his contention.

The Bureau referred the case for administrative review, and the Tax Commission sent the taxpayer his options for having the matter redetermined. The taxpayer responded asking for copies of all the documents wherein he contracted with the United States or the State of Idaho for compensation. The taxpayer stated this was a formal challenge of the Tax Commission's purported administrative authority over him. Therefore, the Tax Commission reviewed the matter and issues this decision.

The taxpayer stated that the State of Idaho Tax Commission does not have jurisdiction over him. On the contrary, the Tax Commission was created by the Idaho legislature to enforce the tax laws of the state of Idaho. The jurisdiction or authority Idaho has over the taxpayer is granted by virtue of the taxpayer living and residing within the borders of the state of Idaho. The

U.S. Supreme Court stated in People of State of New York ex rel. Cohn v. Graves, 300 U.S. 308, 312-313 (1937),

That the receipt of income by a resident of the territory of a taxing sovereignty is a taxable event is universally recognized. Domicil [sic] itself affords a basis for such taxation. Enjoyment of the privileges of residence in the state and the attendant right to invoke the protections of its laws are inseparable from the responsibility for sharing the costs of government.

The Idaho legislature stated its intent to tax in Idaho Code section 63-3002.

It is the intent of the Idaho legislature by the adoption of this act, . . . to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state.

The tax on individuals is further stated in Idaho Code section 63-3024.

For each taxable year, a tax measured by Idaho taxable income as defined in this chapter is hereby imposed upon every individual, trust, or estate required to file a return.

Since the Idaho Legislature has clearly set forth that the Idaho income tax applies to residents of this state and the taxpayer has presented no evidence to show that he is not a resident, clearly the taxpayer is subject to the jurisdiction of Idaho and that of the Tax Commission.

The taxpayer stated he was not engaged in "revenue taxable activities" subject to the authority of Article I Section 8 of the U.S. Constitution. Article I Section 8 states in part, "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; . . ." The Tax Commission believes this statement of the Constitution is what the taxpayer is referencing, but is at a loss to know how the taxpayer comes to the belief that his wages do not constitute taxable income.

The taxpayer was employed in 1997 and was paid \$5,622.72 for his labor. In 1998, the taxpayer received compensation in the amount of \$33,243. In both years, the taxpayer's efforts yielded income and both are included in the definition of gross income found in section 61 of the Internal Revenue Code. Since gross income is the starting point in determining taxable income and compensation for labor is considered a part of gross income, the taxpayer clearly had taxable income. The taxpayer's argument of not engaging in "revenue taxable activities" is irrelevant and not applicable.

The taxpayer stated he did not contract with nor receive a benefit from the municipal corporation know as the State of Idaho. Generally speaking, taxpayers do not contract with the state of Idaho and obviously there is no written contract between the taxpayer and the state of Idaho. However, one could argue an implied contract exists by virtue of the taxpayer living within the boundaries of Idaho. People of State of New York ex rel. Cohn v. Graves, supra.

The taxpayer's argument that he supported with Publication 15 is a misinterpretation of Publication 15. The taxpayer found a section in the early pages of the publication that addressed federal government employers and state and local government employers. He took those sections to mean that wages are only taxable if employed by a governmental entity. However, the publication is applicable to all employers. The first sentence in the general information section states, "This publication explains your tax responsibilities as an employer." It does not limit the employers to being federal, state, or local governments.

The arguments presented by the taxpayer did not persuade the Tax Commission that the taxpayer did not have an obligation to file a Idaho income tax returns or that the taxpayer did not have any taxable income. Therefore, after reviewing the adjustments the Bureau made to the taxpayer's returns, the Tax Commission finds the adjustments appropriate. The Bureau also

added interest and penalty to the taxpayer's tax deficiencies. The Tax Commission finds those additions appropriate as provided for in Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notices of Deficiency Determination dated October 17, 2000 and November 15, 2000, are 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>
1997	\$ 426	\$21	\$119	\$ 566
1998	1,523	76	310	<u>1,909</u>
			TOTAL DUE	<u>\$2,475</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 included 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][REDACTED]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1