

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 15321
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On November 20, 2000, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 1997 in the total amount of \$3,634.

On January 9, 2001, the taxpayer filed a timely appeal and petition for redetermination. The Tax Commission sent the taxpayer a letter setting out options for resolving the protest. The taxpayer responded stating the Tax Commission missed his entire point. The taxpayer stated his inquiry was not a tax protest or a demand for a tax hearing. The taxpayer stated his last letter was a denial of the purported jurisdiction the Tax Commission has over him. He went on to say he has not contracted with nor received a benefit from the municipal corporation, which does business as State of Idaho. 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 earnings of \$24,253.29. The taxpayer did not have any deductions to his wages other than his personal exemption and 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 responded in a letter dated January 9, 2001 saying, "This is my written petition for redetermination . . ." The taxpayer stated 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.

The Bureau referred the case for administrative review, and the Tax Commission sent the taxpayer his options for having the matter redetermined. This is when the taxpayer responded that he did not file a tax protest. Regardless of the taxpayer's statement of filing a tax protest, the taxpayer did request a redetermination. 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 by this chapter 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 by [Redacted] in 1997 and was paid \$24,253.29 for his labor. This activity yielded income for the taxpayer and is 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 known 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 arguments presented by the taxpayer did not persuade the Tax Commission that the taxpayer did not have an obligation to file an Idaho income tax return or that the taxpayer did not have any taxable income. Therefore, after reviewing the adjustments the Bureau made to the taxpayer's return, the Tax Commission finds the adjustments appropriate. The Bureau also added interest and penalty to the taxpayer's tax deficiency. The Tax Commission finds those additions appropriate as provided for in Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated November 20, 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>
1997	\$2,874	\$ 144	\$ 806	\$3,824

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

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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] Receipt No. [Redacted]  
[REDACTED][REDACTED]

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ADMINISTRATIVE ASSISTANT 1