

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15388
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On December 13, 2000, the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (petitioner), asserting income tax, penalty and interest in the amount of \$762 for the 1996 tax year.

On February 13, 2001, the petitioner filed an appeal and petition for redetermination. The petitioner did not request an informal conference; however, he submitted additional information on May 17, 2001, and asked the Commission to issue a decision. The Tax Commission, having reviewed the file and the information the petitioner submitted on May 17, 2001, hereby issues its decision.

The petitioner lived in [Redacted], Idaho during the tax year. He received wages from a [Redacted] business and a business located in Texas. Both businesses reported, on a standard W-2 form, that it paid wages to the petitioner. The combined amount of wages paid by the businesses was in excess of \$8,000 for the 1996 tax year.

The petitioner filed returns regarding both his federal and Idaho individual income taxes for the 1996 tax year. The petitioner attached both W-2's to the return he filed with the Tax Commission, together with a hand-written note explaining he believed the W-2 income was not "income" for federal or state income tax purposes. The petitioner did report and calculate a tax due with regard to unemployment compensation he received.

The Commission's staff prepared a provisional return for the petitioner, adding the income

amount reported on the W-2's to the amount of unemployment compensation reported by the petitioner's return. The staff also provided the petitioners with a standard deduction and personal exemptions in preparing the provisional return. The staff calculated a deficiency of \$762 (tax, penalty and interest) and issued a Notice of Deficiency Determination.

The petitioner responded by submitting standard tax protester arguments stating he was not required to report or pay tax on the income he received from the [Redacted] and Texas businesses. The petitioner asserted he was not required to report the W-2 income or pay federal and Idaho income tax because: (1) wages are not "income" subject to tax; (2) he is a sovereign citizen of the Constitutional Republic of America rather than a resident of the state of Idaho (he is a United States citizen but without a "tax home"); and (3) the Tax Commission did not have the authority to adjust the income reported on his 1996 Idaho return and issue a Notice of Deficiency Determination.

The courts have rejected the petitioner's claim that wages are not income subject to tax. Coleman v. Commissioner, 791 F.2d 68, 70 (7th Cir. 1986); United States v. Lawson, 670 F.2d 923 (10th Cir. 1982); United States v. Buras, 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 Com'n, 110 Idaho 572, 575 (Ct. App. 1986).

Courts also have held that the characterization of a person's status as a natural born citizen or "sovereign" does not change his or her state residency status for income tax purposes. 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. Domicile itself affords a basis for a state's individual income tax. People of State of New York ex rel. Cohn v. Graves, 300 U.S. 308, 312-13 (1937). "That the receipt of income by

a resident of the territory of a taxing sovereignty is a taxable event is universally recognized. . . .
Enjoyment of the privileges of residence in the state and the attendant right to invoke the protections of
its laws are inseparable from responsibility for sharing the costs of government.”

The recharacterization of one’s domicile in Idaho does not alter the clear legislative definition of
residency in Idaho’s statutes or Idaho’s inherent ability to tax the income of its residents. Neither does
the recharacterization of one’s Idaho residency make one a nonresident alien or otherwise make the
federal income sourcing rules for nonresident aliens or a foreign corporation applicable to them.

Idaho law specifically provides the Commission with the authority to adjust a return that is
found to be deficient and to issue a Notice of Deficiency.

**63-3040. EXAMINATION OF RETURN AND DETERMINATION OF
TAX.** As soon as practicable after the return is filed, the state tax commission
shall examine it and shall determine the correct amount of the tax.

**63-3045. NOTICE OF REDETERMINATION OR DEFICIENCY --
INTEREST.** (1) (a) If, in the case of any taxpayer, the state tax commission
determines that there is a deficiency in respect of the tax imposed by this
title, the state tax commission shall, immediately upon discovery thereof,
send notice of such deficiency to the taxpayer by registered or certified mail
or by other commercial delivery, . . .

As stated above, the Commission’s staff found that W-2 wage and income information indicated the
petitioner was required to file and report taxable income for the 1996 tax year.

Idaho Code § 63-3013 states that any individual who is domiciled in the state of Idaho is a
resident. The Petitioner does not dispute that he lived in [Redacted], Idaho, for the entire tax year or that
he was otherwise domiciled in [Redacted]. The petitioners owned real property in Idaho, titled
motor vehicles in Idaho, were registered to drive in Idaho, and were otherwise domiciled in Idaho
during 1996. Idaho Code § 63-3024 imposes an income tax on every resident individual measured by
his taxable income. Because the petitioner was domiciled in Idaho and was an Idaho resident, the

Commission's staff correctly determined that the petitioner's W-2 income was subject to Idaho individual income tax.

Based on the available information, the Tax Commission also finds the provisional returns to be a fair representation of the petitioner's taxable income for the year in question. 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 Com'n, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the petitioner to show that the tax deficiency is erroneous. Id. Since the Petitioner has failed to meet this burden, 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 December 13, 2000, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$562	\$28	\$206	\$795

Interest is calculated through October 1, 2001, and will continue to accrue at the rate of \$0.12 per day until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner'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] Receipt No. [Redacted]
 [Redacted] [REDACTED]

ADMINISTRATIVE ASSISTANT 1