

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO.15422
[REDACTED],)	
)	DECISION
Petitioner.)	
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On August 3, 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 \$789 for the tax year 1999.

On October 5, 2000, the petitioner filed a protest and requested an informal conference. An informal conference was held on October 5, 2001. The petitioner attended the conference and submitted additional materials during the conference.

This decision is based on the information contained in the Commission’s file, including materials and notes from the informal conference. The Commission has reviewed the file, is advised of its contents, and now issues its decision.

For the tax year 1999, the petitioner filed an Idaho individual income tax return. The petitioner’s return showed a zero federal adjusted gross income and zero taxable income. Based on the “zero” return he filed, the petitioner sought a refund in the amount of \$174.

A Commission Tax Enforcement Specialist (specialist) reviewed the return filed by the petitioner. The petitioner’s return indicated he was an Idaho resident for the tax year 1999. The W-2 forms attached to the return also indicated that during the tax year 1999 the petitioner received in excess of \$18,000 in compensation from various persons and businesses. Based on this information, the specialist concluded the petitioner had income subject to Idaho individual income tax, contrary to what the petitioner asserted on his return.

The specialist prepared a provisional return to determine the petitioner's correct tax liability. The specialist used the income reported on the W-2 Forms to determine the petitioner's income for the 1999 tax year. The specialist provided the petitioner with standard deductions, personal exemptions and a grocery credit when he prepared the provisional return. The specialist also provided the petitioners with a credit for the withholding tax reported on the W-2 Forms. The provisional returns showed a tax deficiency for the 1999 tax year and the specialist issued a Notice of Deficiency Determination on the date and in the amount referenced above.

The petitioner contested the Notice of Deficiency Determination with arguments that are common tax-protestor arguments. The petitioner argues that: (1) the wages he received are not "income" subject to tax; (2) federal and state income taxes are based solely on "voluntary compliance"; (3) the Idaho legislature improperly delegated its legislative authority to the federal government when the legislature incorporated by reference provisions of federal tax law in Idaho's state tax code; and (4) the Tax Commission did not have the authority to issue a Notice of Deficiency Determination.

The Tax Commission finds the petitioner's arguments are erroneous as a matter of law. Both the Idaho and federal courts have examined and rejected these arguments repeatedly. The courts held that a taxpayer's claim that wages are not income subject to tax is totally devoid of merit. 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 courts also have examined and uniformly rejected the argument that the obligation to file returns and pay income tax is discretionary or completely voluntary on the taxpayer's part. 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 petitioner objects to the Idaho tax statutes that impose tax obligations because they reference the federal tax law. For instance, the Idaho income tax return filing requirements are set out in Idaho Code § 63-3030.

Persons required to make returns of income. (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

Section 6012(a)(1) states a specific dollar amount that triggers a person's obligation to file an individual income tax return. Persons who receive income in excess of the stated or "threshold" amount must file a federal return.

For convenience to taxpayers and state tax administrators alike, the legislature determined that an individual's Idaho filing requirement would be measured in the same manner as the federal filing requirement. The petitioner objects to the Idaho Legislature incorporating federal tax provisions in this manner. The petitioner asserts that in doing so the Idaho Legislature unlawfully delegated to the federal government its state legislative authority of making Idaho law.

The petitioner has misconstrued the law. Under the Idaho constitution, all state legislative power is vested in the Idaho Legislature. The Idaho Supreme Court held that while the Legislature cannot grant authority to the federal government to promulgate laws for it, the Legislature does not delegate its authority when it simply adopts a law or rule of Congress already in existence or operation. Idaho Savings & Loan Association v. Roden, 82 Idaho 128, 350 P.2d 225 (1960). In the instance cited by the petitioner, the Idaho Legislature did not delegate its authority to the federal

government. The Idaho Legislature simply adopted federal tax laws that already existed. As noted above, there are sound policy reasons behind the Idaho Legislature's adopting part of the federal tax code.

Idaho Code § 63-3030(a)(1) sets forth the filing requirements for an individual, such as the petitioner, who is a resident of this state. A resident with a gross income in excess of the statutory threshold amount is required to file an Idaho individual income tax return. The specific Idaho Code section that imposes the Idaho individual income tax is Idaho Code § 63-3024. Individuals required to file an Idaho income tax return must pay Idaho income tax on their taxable income at the rate set forth in Idaho Code § 63-3024.

In the event a person fails to file a tax return or to pay the proper amount of individual income tax, Idaho law specifically provides the Commission with the authority to issue a Notice of Deficiency.

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 hereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery . . .

As stated above, the Enforcement Specialist found a deficiency existed based upon the wage information reported on the W-2 Forms submitted to the Commission. The specialist determined that the petitioner's wages were not exempt income and subsequently issued a Notice of Deficiency Determination.

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

failed to meet his burden, the Tax Commission finds that the amount shown due on the Notice of Deficiency Determination for tax year 1999 is true and correct.

WHEREFORE, the Notice of Deficiency Determination dated August 3, 2000, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner's refund claim for the taxable year 1999 is DENIED, and 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>
1999	\$ 512	\$ 256	\$ 70	\$ 838

Interest is calculated through December 31, 2001, and will continue to accrue at the rate of \$0.11 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]
[REDACTED]
[Redacted]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1