

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15569
[REDACTED],)	
)	DECISION
Petitioner.)	
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)	

On April 9, 2001, 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 \$8,700 for the taxable years 1996 through 1999.

On April 30, 2001, the petitioner filed a protest. The petitioner elected not to participate in an informal conference asserting the state lacked the jurisdiction to tax him and the Tax Commission lacked the authority to issue a Notice of Deficiency. 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.

This is a nonfiler case. The petitioner did not file an Idaho income tax return for the taxable years 1996 through 1999. Based on information obtained by the Tax Commission's Enforcement Specialist, it appeared that the petitioner, who lives in [Redacted], Idaho, had an Idaho income tax filing requirement. The wage and income information obtained by the Enforcement Specialist showed the petitioner received an annual income ranging from approximately \$10,000 to \$50,000 during the tax years in question.

When contacted by the Enforcement Specialist about his apparent Idaho income tax filing requirement, the petitioner responded by submitting standard tax protester arguments regarding his requirement to file federal and state income tax returns. The Commission's staff prepared a provisional return for the petitioner, using the wage and income information determined during a

federal audit. The Enforcement Specialist also provided the petitioner with standard deductions and personal exemptions in preparing the provisional return. The Enforcement Specialist calculated a total deficiency of \$8,700 (tax, penalty and interest) and issued a Notice of Deficiency Determination.

The petitioner apparently believes he is not required to file or pay federal and Idaho income tax because: (1) he is a sovereign American citizen rather than an Idaho resident, and, therefore, is not subject to the tax laws of the United States, and (2) his wages or “fruits of labor” are not “income” subject to tax.

The Tax Commission is not persuaded. None of the arguments made by the petitioner have convinced the Tax Commission that he is somehow immune from his legal obligation to file Idaho income tax returns and to pay his taxes.

The courts uniformly have 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. 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 courts also consistently rejected the argument that wages or the “fruits of one’s labor” are not income. 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).

The record before the Tax Commission reveals the petitioner was an Idaho resident during the years in question. "Resident" is defined in Idaho Code § 63-3013 as any individual who has resided in the state of Idaho for the entire taxable year or who is domiciled in this state. The petitioner does not dispute that he lived in [Redacted] Idaho, during the tax years in question. The petitioner was domiciled during the years in question, and continues to be domiciled, in Idaho. He is a resident of Idaho.

The Idaho income tax return filing requirements are set out in Idaho Code § 63-3030. Any resident who, during the taxable year, has a gross income in excess of the stated threshold amount must file a return. The petitioner's annual income exceeded the threshold amount determined by law. For example in 1996, single married persons with an annual gross income in excess of \$6,500 were required to file federal and Idaho returns. Persons 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. Therefore, under Idaho laws the petitioner was required to file an Idaho individual income tax return and to pay the Idaho income tax due on that return.

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 the burden in this case, the Tax Commission finds that the amount shown due on the Notice of Deficiency Determination is true and correct.

WHEREFORE, the Notice of Deficiency Determination dated April 9, 2001, is hereby

APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$1,291	\$323	\$457	\$2,071
1997	3,176	794	848	4,818
1998	132	33	26	191
1999	1,293	323	152	<u>1,768</u>
				<u>\$8,848</u>

Interest is calculated through October 1, 2001, and will continue to accrue at the rate of \$1.29 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]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1