

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|-------------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NOS. 15711, 15712, and |
| [Redacted], |) | 15713 |
| |) | |
| Petitioners. |) | DECISION |
| _____ |) | |

On June 5, 2001, the Idaho State Tax Commission issued three Notices of Deficiency Determination to [Redacted] (petitioners). The petitioners are husband and wife. For tax year 1999, the Commission issued a Notice of Deficiency Determination to the wife in the amount of \$2,947, including income tax, penalty and interest. The Commission also issued a Notice of Deficiency Determination to the husband for the same tax year in the amount of \$2,832, including income tax, penalty and interest. For tax year 2000, the Commission issued a joint Notice of Deficiency Determination to the petitioners, asserting income tax, penalty and interest in the amount of \$4,873.

On July 16, 2001, the Idaho State Tax Commission received three letters from the petitioners, which the Commission treated as timely filed appeals and petitions for redetermination with respect to each Notice of Deficiency Determination. In subsequent correspondence, the petitioners requested an informal conference. The Commission and the petitioners discussed the Notices of Deficiency Determination in an informal conference held telephonically October 2, 2001.

This decision is based on the information contained in the Commission's files, including materials and discussions presented during the informal conference. The Commission has reviewed the files and is advised of their contents. The Commission now issues its decision.

The petitioners filed federal and Idaho individual income tax returns for tax years 1999 and 2000. For the tax year 1999, the petitioners filed separate returns, but for the tax year 2000, the

petitioners filed joint federal and state tax returns. Each of the petitioners' various returns showed a zero federal adjusted gross income and zero taxable income. Based on the "zero" returns they filed, the petitioners sought refunds of the entire amount of withholding taxes withheld by their employers.

After processing the tax year 1999 return, the Commission issued a refund because the federal adjusted gross income reported on the petitioners' Idaho tax return matched the amount reported on their federal tax return. Later, a Tax Enforcement Specialist (specialist) from the Tax Discovery Bureau determined the refund was issued in error.

The Commission's Tax Enforcement Specialist reviewed the returns and accompanying documents filed by the petitioners. The petitioners' returns indicated that the petitioners were Idaho residents for tax years 1999 and 2000. The W-2 Forms attached to the returns also indicated that during the tax year 1999 the petitioners received approximately \$75,000 in compensation from Northwest Communications Consultants, Inc. The husband received approximately \$45,000 and the wife received approximately \$32,000 from the corporation. During the 2000 tax year the petitioners also received approximately \$75,000 of compensation from the corporation. Based on this information, the specialist concluded the petitioners had income subject to Idaho individual income tax.

The specialist prepared provisional returns for both tax years. The specialist used the income reported by [Redacted] on the W-2 Forms to determine the petitioners' income for each year. The specialist provided the petitioners with standard deductions and personal exemptions. The specialist also provided the petitioners with a credit for the withholding tax paid by [Redacted] for the tax year 2000. However, the specialist did not provide a credit for withholding taxes regarding the tax year 1999 because the petitioners had received a refund of those taxes. The

provisional returns showed deficiencies and the specialist issued the three Notices of Deficiency Determination on the date and in the amounts referenced above.

The petitioners contested the Notices of Deficiency Determination with two arguments that are common tax-protestor arguments: (1) the wages they received were not “income” subject to tax; and (2) because neither the Idaho nor federal tax code specifically provides that individuals are “liable” for individual income tax, the federal and state taxes are based solely on “voluntary compliance.”

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 completely voluntary. 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 Idaho income tax return filing requirements are set out in Idaho Code § 63-3030. Idaho Code § 63-3030(a)(1) sets forth the filing requirements for individuals who are residents 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.

The record before the Tax Commission reveals that the petitioners were residents of Idaho during the tax years in question. Despite their arguments to the contrary, the petitioners' "wages" constituted income for individual income tax purposes. The amount of the petitioners' income also was in excess of the statutory threshold amount. Therefore, the petitioners were required to report their wages as income and pay Idaho tax on that income.

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 petitioners to show that the tax deficiency is erroneous. Id. Since the courts have consistently rejected the petitioners' legal arguments, the petitioners have failed to meet their burden in the present case. Therefore, the Tax Commission must find that the amount shown due on the Notices of Deficiency Determination is true and correct.

WHEREFORE, the Notices of Deficiency Determination dated June 5, 2000, are hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners' refunds for the taxable years 1999 and 2000 are DENIED and that the petitioners pay the following taxes, penalties and interest:

[Redacted]:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 1999 | \$1,762 | \$881 | \$242 | \$2,885 |

[Redacted]:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 1999 | \$1,833 | \$917 | \$252 | \$3002 |

[Redacted]:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 2000 | \$3,191 | \$1,596 | \$181 | \$4,968 |

Interest for each of the above deficiencies is calculated through December 31, 2001.

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

An explanation of the petitioners' 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 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