

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

|                                 |   |                  |
|---------------------------------|---|------------------|
| In the Matter of the Protest of | ) |                  |
|                                 | ) | DOCKET NO. 16806 |
| [Redacted],                     | ) |                  |
|                                 | ) | DECISION         |
| Petitioners.                    | ) |                  |
| _____                           | ) |                  |

On June 14, 2002, the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), asserting additional income taxes, penalty and interest in the amount of \$21,360 for the 1999 and 2000 taxable years. A timely appeal and petition for redetermination was filed by the taxpayers. The taxpayers did not request an informal hearing but rather chose to rely on the record as it stands. The Tax Commission, having reviewed the file, hereby issues its decision.

**ANALYSIS**

This is a nonfiler case. The taxpayers have not filed Idaho individual income tax returns for the 1999 and 2000 taxable years. Information obtained by the Tax Discovery Bureau indicates that [Redacted] live in [Redacted], and that they resided within this state during the entire 1999 and 2000 taxable years. Based on federal form 1099 information obtained from [Redacted], the Tax Discovery Bureau determined that the taxpayers received gross income of \$169,702 in 1999 and \$54,532 in 2000. A summary of the income reported on the federal 1099 forms is attached to this Decision as Appendix 1.

In their letter of protest, the taxpayers argue that since [Redacted] has not yet assessed any [Redacted] income tax against them for the 1999 and 2000 taxable years, the Idaho State Tax Commission lacks the legal authority to assert a tax deficiency or to assess any Idaho income tax against them for the 1999 and 2000 taxable years. The taxpayers' purported legal support for this claim is quite confusing and appears to be based on misguided "tax protester" arguments.

Although not entirely clear, it appears that [Redacted] believe that their dividend, interest, and miscellaneous income reported on the [Redacted] forms is exempt from [Redacted]. From this initial premise the taxpayers assert that they have no federal individual income tax filing requirement, and [Redacted], for either 1999 or 2000. Thus, according to the taxpayers, they do not have an Idaho income tax filing requirement for either 1999 or 2000.

In support of their assertion that they have no federal income tax filing requirement for 1999 or 2000 the taxpayers have submitted a copy of a request they sent to the [Redacted] asking the [REDACTED] to provide a written statement conclusively establishing that they are required to keep books and records and to file tax returns “for any of the eight classes of tax administered by the [Redacted].” Affidavit of Material Facts dated July 8, 2002, p. 1, paragraph 5. According to [Redacted], unless or until the [Redacted] responds to their request with a conclusive statement or notice that they are required to file federal income tax returns for 1999 and 2000, the Idaho State Tax Commission has no authority to issue a tax deficiency notice or to assess them for any Idaho individual income taxes they may owe for 1999 and 2000. Alternatively, the taxpayers suggest that if the Idaho State Tax Commission believes it has authority to assert a tax deficiency before the [REDACTED] has responded to their request, the Tax Commission must first answer the eleven questions that were posed to the [REDACTED].

The taxpayers’ claim that the Idaho State Tax Commission has no authority to assert a tax deficiency against them is incorrect. Idaho Code § 63-3045(1)(a) specifically provides that “[i]f . . . the state tax commission determines that there is a deficiency in respect to 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 . . . .” Nothing in that statute requires the Tax Commission to wait until the [Redacted]e has assessed a tax against the

taxpayer or has conclusively established that the taxpayer has a federal income tax filing requirement. While the Idaho income tax laws incorporate many of the provisions of the federal income tax laws, and utilize federal “taxable income” as the starting point for computing a taxpayer’s Idaho taxable income, see Idaho Code § 63-3002, it does not follow that the [Redacted] must affirmatively act before the Idaho State Tax Commission is authorized to issue a notice of deficiency. Stated another way, the Idaho State Tax Commission is statutorily authorized to determine whether a taxpayer has an Idaho income tax filing requirement or whether that individual owes an Idaho income tax deficiency regardless of any action taken by the [Redacted]. The taxpayers’ claim to the contrary is not supported by any logical argument or legal authority and ignores the plain language of Idaho Code § 63-3045(1)(a).

Likewise, there is nothing in the Idaho income tax laws that requires the Tax Commission to answer questions relating to a taxpayers’ federal income tax reporting requirements. In certain circumstances the Tax Commission may have an affirmative duty to answer specific questions posed to it, and in any event certainly endeavors (whether required to or not) to answer reasonable and relevant questions posed by the public. It does not follow, however, that responding to questions is a prerequisite to issuing a Notice of Deficiency Determination. There is certainly nothing in the plain language of Idaho Code § 63-3045(1)(a) to suggest that such a prerequisite exists; and the taxpayers have not cited any relevant authority to support this hypothesis. Therefore, the taxpayers’ fallback argument, that the Tax Commission cannot assert a tax deficiency determination against them until the Commission first answers the eleven questions they posed to the [REDACTED], is hereby rejected.

The taxpayers do correctly point out that under Idaho’s income tax laws a resident individual is required to file an Idaho individual income tax return only if that individual is

required to file a federal return. See Idaho Code § 63-3030(a)(1) (“Returns with respect to taxes measured by income in this chapter shall be made by . . . Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.”). Under Internal Revenue Code § 6012(a)(1), a federal income tax return is required of every individual with gross income in excess of the applicable personal exemption amount and (for certain taxpayers) the standard deduction amount. For the 1999 taxable year, the filing threshold for married individuals was \$2,750 if filing a separate tax return (\$2,750 personal exemption plus \$0-standard deduction) or \$12,700 if filing a joint tax return (\$5,500 personal exemptions plus \$7,200 standard deduction).<sup>1</sup> For 2000 the filing threshold for married individuals under Internal Revenue Code § 6012(a)(1) was \$2,800 if filing a separate tax return or \$12,950 if filing a joint tax return.

Based on the evidence contained in the file, it is clear beyond any reasonable dispute that during 1999 and 2000 [Redacted] were Idaho residents and that they earned income in excess of the minimum federal filing amounts discussed above. As a result, they are “resident individual[s] required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.” Idaho Code § 63-3030(a)(1). The fact that they refuse to file [Redacted] and the fact that the [REDACTED] has thus far not asserted a [Redacted] income tax liability against them, does not somehow excuse them from their obligation to file Idaho income tax returns. The taxpayers’ convoluted arguments to the contrary are hereby flatly rejected.

As indicated above, information obtained by the Commission’s Tax Discovery Bureau indicates that [Redacted] were living in, and residents of, Idaho during the 1999 and 2000 taxable years and that they received gross income well in excess of the minimum filing amounts

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<sup>1</sup> See I.R.C. § 6012(a)(1)(A)(iv). The federal minimum filing threshold is slightly higher where one or both spouses is over 65 years of age or blind. See I.R.C. § 6012(a)(1)(B).

in each year under review. A summary of the dividend, interest, and miscellaneous income that is reported on [Redacted] forms for each of the tax years at issue is included in Appendix 1. Based on this information, it is clear that Mr. and Mrs. Wordell are required to file Idaho individual income tax returns for the 1999 and 2000 taxable years. Having failed to do so, the Tax Commission was well within its statutory power to issue the Notice of Deficiency Determination that is the subject matter of this dispute.

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 taxpayer to show that the tax deficiency is incorrect or otherwise erroneous. Thus far [Redacted] have presented nothing but illogical procedural arguments and flawed tax protester rhetoric to support their protest of the June 14, 2002, Notice of Deficiency Determination. These arguments are unconvincing. As a result, the Tax Commission finds that the taxpayers have failed to establish that the Notice of Deficiency Determination is erroneous.

WHEREFORE, the Notice of Deficiency Determination dated June 14, 2002, is hereby APPROVED, AFFIRMED AND MADE FINAL.

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

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u>    |
|-------------|------------|----------------|-----------------|-----------------|
| 1999        | \$12,337   | \$3,084        | \$2,605         | \$18,026        |
| 2000        | 2,717      | 679            | 357             | <u>3,753</u>    |
|             |            |                | TOTAL           | <u>\$21,779</u> |

Interest is calculated through January 31, 2003, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

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

An explanation of the taxpayers' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2003, 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]