

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17654
[Redacted])	
Petitioner.)	DECISION
)	
)	
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On October 16, 2003, the staff of the Taxpayer Accounting Section of the Revenue Operations Division of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing a reduced refund for the taxable year 2001 in the total amount of \$598.

On September 29, 2003, the taxpayer filed a protest to the Section's tax computation letter dated September 23, 2003. The Tax Commission recognized the protest as a timely appeal and petition for redetermination of the subsequent Notice of Deficiency Determination. The taxpayer did not believe a hearing was necessary and submitted additional information in support of her position. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer filed a 2001 part-year resident Idaho income tax return reporting wages she earned in Idaho. The taxpayer subtracted the wages from her income with the explanation that the wages were not subject to tax. The taxpayer made a claim for refund of all the withholdings on her wages.

The Revenue Operations Division received the taxpayer's return, reviewed it for correctness, made corrections to the return, and sent the taxpayer a Notice of Correction. The taxpayer disagreed with the corrections and filed a protest. The taxpayer stated that she was not aware of any statute that made her liable for a federal or state income tax. She stated that since there is no statute making her liable for an income tax, her taxable income was zero.

The Decision referred the matter for administrative review, and the Tax Commission sent the taxpayer a letter giving her two alternative methods for having the Notice of Deficiency Determination redetermined. The taxpayer responded that a hearing on the matter was not necessary because the facts were not in dispute. She was disputing the law.

The taxpayer stated that, according to Idaho Code sections 63-3002 and 63-3004, it was her understanding and position that she is not a “taxpayer.” She makes this claim because she could not find any statute in 26 USC that makes any individual liable for the income tax imposed in 26 USC 1. Likewise, there is not a statute in the Idaho Code that makes any individual liable for or subject to the tax imposed in Idaho Code section 63-3024. The taxpayer stated that the Idaho statutes require the Tax Commission to follow the Internal Revenue Code (IRC). Since her federal return reported zero federal income, her Idaho return showed zero income. The taxpayer stated the state should refund all her withholdings as the Internal Revenue Service did.

The taxpayer later provided additional information in support of her position that she was not liable for any tax or that she was not a taxpayer. The document she provided implied that there was a two-step process that makes an individual liable for federal income taxes. The taxpayer tied the document to her Idaho income tax return with the definition in Idaho Code section 63-3004 that defines the term Internal Revenue Code.

Idaho Code section 63-3002 states the intent of the Idaho legislature to impose a tax on the residents of Idaho and upon nonresidents that derive income from Idaho sources. Idaho Code section 63-3024 imposes a tax on every individual that is required to file a return. Idaho Code section 63-3030 requires that every part-year resident individual having gross income from Idaho sources in excess of \$2,500 file an Idaho individual income tax return. Idaho Code section 63-3008 defines an individual as a natural person.

The taxpayer stated she was a natural person. Therefore, she is an individual as defined in the Idaho Code. The taxpayer received wages from the [Redacted]School District. The taxpayer stated on her 2001 return that she was a retired teacher, so presumably the wages were for teaching school in Idaho. Therefore, the wages are Idaho source income. The wages the taxpayer received were well over the \$2,500 filing threshold for part-year resident individuals. Therefore, it follows that the taxpayer is an individual the Idaho legislature identified as someone it had the intent of imposing a tax upon.

The taxpayer's argument is based upon Idaho Code section 63-3002, which states,

It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, . . .

She stated that since she reported her federal taxable income as zero, her Idaho income tax return must accordingly show zero taxable income. She argued that her federal return showed zero taxable income because she was not liable or subject to the tax imposed by IRC section 1.

The Tax Commission and the courts see the taxpayer as being misguided in her interpretation. The court in In Re: Peter Kay Stern, 114 F.3d 1177 (4th Cir. 1997) stated,

. . . the duty to file returns and pay income taxes is clear. Section 1 of the Internal Revenue Code imposes a federal tax on the taxable income of every individual. Section 63 defines "taxable income" as gross income minus allowable deductions. Section 61 states that "gross income means all income from whatever source derived," including compensation for services. Sections 6001 and 6011 provide that a person must keep records and file a tax return for any tax for which he is liable. Finally, § 6012 provides that every individual having gross income that equals or exceeds the exemption amount in a taxable year shall file an income tax return. The duty to pay federal income taxes therefore is "manifest on the face of the statutes, without any resort to IRS rules, forms or regulations."

IRC section 1 imposes a tax on the taxable income of every individual. The taxpayer had taxable income from the wages she received from the [Redacted]. The taxpayer was made liable, subject to, and required to pay income taxes. The court stated it for federal purposes and Idaho Code sections 63-3002, 63-3024, and 63-3030 make the taxpayer liable, subject to, and required to pay Idaho income taxes.

The taxpayer stated her wages were not subject to being taxed. However, she has provided no documentation or evidence to show that her wages were exempted from tax or that they were not Idaho source income. The taxpayer has only presented frivolous tax protestor type arguments. The Tax Commission is not persuaded and finds that the taxpayer has not met her burden to show that the correction is erroneous. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). Therefore, the Tax Commission upholds the Notice of Deficiency Determination.

WHEREFORE, the Notice of Deficiency Determination dated October 16, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer's refund claim be reduced to the following:

<u>YEAR</u>	<u>REFUND</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$598	\$ 0	\$ 0	\$598

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

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, 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.
