

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17739
[Redacted])	
Petitioner.)	DECISION
)	
)	

On September 11, 2003, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted](petitioner), asserting income tax, penalty, and interest in the amount of \$5,995 for the taxable years 1998 through 2001.

On November 10, 2003, the petitioner filed a protest of the NOD. The petitioner did not request a hearing before the Tax Commission. The Commission has reviewed the file, is advised of its contents, and now issues its decision modifying the NOD. The petitioner's tax information for tax year 2002 was incorrectly reported in the NOD as tax year 2001. In this decision for tax year 2002, the petitioner's standard deduction and personal exemption have been adjusted as well as the tax, penalty and interest due.

The petitioner has failed to file Idaho income tax returns for the years 1998, 1999, 2000, 2001, and 2002. The petitioner was issued an Idaho driver's license in 1997 and 2002. On September 19, 2002, TDB sent a letter with a questionnaire to the petitioner to help the Commission properly determine the petitioner's filing requirement. The petitioner returned the questionnaire unanswered. On November 5, 2002, TDB sent another letter with a questionnaire. This questionnaire was received back from the petitioner on November 11, 2002, with the box marked that she was not required to file. On the back of the questionnaire she wrote, in pertinent part:

Your records are correct. I have not filed. I am not required by law to do so. I have no liability to the federal income tax because I am

not involved in a revenue taxable activity. If I worked for the federal government or raised tobacco or built guns then I would be liable for the “privilege” tax. I work in the private sector and am not involved in a taxable activity. I am not a taxpayer. If I chose not to volunteer my property to IRS then I most definitely do not choose to volunteer to your agency. . . .

As of this day Nov18, 2002 I give notice that I cancel, revoke and recind [sic] all and any previous signatures on any form or letter that may have been construed to be a contract between Idaho tax commission and myself [Redacted].

TDB then obtained the petitioner’s income information [Redacted] TDB provided the petitioner with standard deductions and personal exemptions in preparing the provisional returns.

[Redacted]In the petitioner’s protest letter postmarked November 10, 2003, she stated in pertinent part:

I believe neither you or the federal tax system have jurisdiction over me. Even so, I’m writing this letter for your information. I am not engaged in a taxable activity. I do not build guns, grow tobacco or make liquor nor do I work for the state or federal government. I have no contract with your agency. I owe you nothing. (See my past letter).

To help you understand I am sending a video tape explaining my position. The tape confirms most of what I have come to understand from my study of the tax code the past few years.

In a letter dated November 17, 2003, TDB informed the petitioner that she had filed a timely petition for redetermination of the NOD. She was also informed that her file was being transferred to the Commission’s legal/tax policy division for further review.

The Tax Commission’s Tax Policy Specialist (policy specialist) sent the petitioner a letter on November 21, 2003, to inform her of her alternatives for redetermining a protested NOD. The petitioner responded by submitting more tax protester information.

The Tax Commission finds the petitioner’s arguments are erroneous as a matter of law. The courts have addressed and rejected these common tax protestor arguments time and time again. Additionally, Idaho law clearly sets forth the petitioner’s obligation to file tax returns and pay the

amount of tax correctly due on those returns. The Commission is authorized to issue a Notice of Deficiency Determination when an individual fails to satisfy his or her obligation.

The record before the Tax Commission demonstrates that the petitioner was an Idaho resident during the years in question. The term “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 she lived in Idaho during the tax years in question. She [Redacted] was established by the [Redacted], a governmental subdivision of the state of Idaho with all the powers of a public quasi-municipal corporation. It appears that the petitioner does work for state government.

The petitioner was domiciled in Idaho during the years in question and continues to be domiciled in Idaho. She is a resident of Idaho.

The courts have addressed 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 filing requirements are set out in Idaho Code § 63-3030. Any resident who has a gross income in excess of the stated threshold amount during the taxable year must file a return. The petitioner’s annual income exceeded the threshold amount determined by law.

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 correctly due on that return.

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

[Redacted] Because petitioner was domiciled in Idaho and was an Idaho resident, the specialist correctly determined that the petitioner's income was subject to Idaho individual income tax and issued a NOD.

It is well settled in Idaho that a NOD 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 Commission, 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 should be modified to reflect the corrected amount for tax year 2002.

WHEREFORE, the Notice of Deficiency Determination dated September 11, 2003, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER 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>
1998	\$1,170	\$293	\$398	\$ 1,861
1999	1,211	303	323	1,837
2000	977	244	182	1,403
2002	679	170	30	<u>879</u>

TOTAL DUE \$5,980

Interest is calculated through February 24, 2004.

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 _____, 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] _____