

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19358
[Redacted],)	
)	DECISION
Petitioner.)	
)	

[Redacted] (petitioner) protests the Notice of Deficiency Determination issued by staff of the Idaho State Tax Commission (Commission) dated March 1, 2006, asserting additional income tax, penalty, and interest totaling \$34,174 and \$5,207 for 2002 and 2003, respectively.

The staff of the Commission sent the petitioner a letter stating that the records of the Commission indicated that she was required to file, but had not filed, Idaho individual income tax returns for 2002 and 2003. Having received no adequate response, a Notice of Deficiency Determination was issued to the petitioner on March 1, 2006. The petitioner sent a letter to the Commission staff citing standard tax protestor arguments.

The petitioner was notified that she could meet with a Commissioner or a designee in an informal conference to discuss the deficiency determined by the staff or, in the alternative, submit additional information to show why the deficiency should be redetermined. The petitioner submitted additional tax protestor material and did not request a conference.

This is a nonfiler case and a tax protestor case. The petitioner lived in Idaho during the years addressed in the Notice of Deficiency Determination referred to above.

The petitioner asked for the production of certain aspects of the law. Much of this has been provided to the petitioner.

There are two tax protester arguments to address in this decision: (1) that the Idaho income tax constitutes involuntary servitude on the part of the petitioner; and (2) that the petitioner's income is not taxable due to Internal Revenue Code § 861.

Arguments that the paying of income tax constitutes involuntary servitude have been raised and have been addressed for many years. The Tenth Circuit Court of Appeals addressed the matter as follows:

If the requirements of the tax laws were to be classed as servitude, they would not be the kind of involuntary servitude referred to in the Thirteenth Amendment. [FN2] *Marcus Brown Holding Co. v. Feldman*, 256 U.S. 170, 199, 41 S.Ct. 465, 65 L.Ed. 877; *In re Slaughter House Cases*, 16 Wall. 36, 69, 21 L.Ed. 394; *Butler v. Perry*, 240 U.S. 328, 333, 36 S.Ct. 258, 60 L.Ed. 672; *Hodges v. United States*, 203 U.S. 1, 16, 27 S.Ct. 6, 51 L.Ed. 65; *United States v. Harris*, 106 U.S. 629, 640, 1 S.Ct. 601, 27 L.Ed. 290.

[2] The allegations of the petition are very broad and it is difficult, if not impossible, to determine therefrom just what the complaint is except that there exists a strong dislike for the taxing procedure. Apparently the taxpayer, while recognizing the taxing power of the United States, attacks both the legality of the Sixteenth Amendment and the constitutionality of the Federal tax laws, rules and regulations enacted pursuant thereto. It is admitted that a federal income tax may be levied under the Sixteenth Amendment and no law, rule guaranteed the taxpayer by the Constitution. The claim is clearly unsubstantial and without merit. *Levering & Garrigues Co. v. Morrin*, 289 U.S. 103, 53 S.Ct. 549, 77 L.Ed. 1062. In *Abney v. Campbell*, 5 Cir., 206 F.2d 836, certiorari denied 346 U.S. 924, 74 S.Ct. 311, similar allegations were said to be far fetched and frivolous. We think the description applies to the allegations in this case.

Porth v. Brodrick, 214 F.2d 925 at 926 (1954).

The Commission finds that the law has been settled regarding this issue and has been settled for decades. The Commission finds no merit in this argument raised by the petitioner.

The courts have also considered Internal Revenue Code § 861 arguments, such as those raised by the petitioner, on numerous occasions and every court has rejected the arguments. The

Tax Court recently addressed the matter as follows:

Petitioner did not dispute at his Appeals hearing that he received the notices of deficiency. Petitioner argued, during the Appeals hearing and throughout the administrative process with the IRS, that he did not have taxable income under sections 861, 911, and section 1.861-8(a)(4), Income Tax Regs. That argument has been rejected by every court that has addressed the issue and is the type of frivolous argument that wastes the Court's time and resources. We do not address petitioner's section 861 argument with somber reasoning and copious citations of precedent, as to do so might suggest that petitioner's arguments possess some degree of colorable merit. See *Crain v. Commissioner*, 737 F.2d 1417, 1417 (5th Cir.1984). During the Appeals hearing petitioner raised only his frivolous section 861 argument and did not provide any collection alternatives. Accordingly, Appeals Officer Owens determined to proceed with collection of petitioner's tax liabilities for the years in issue. (Footnotes omitted.)

Woods v. Commissioner, T. C. Memo 2006-38. See also Stephens v. Commissioner T. C. Memo 2005-183; Dashiell v. Commissioner, T. C. Memo 2004-210.

These arguments are substantially the same as those advanced by [Redacted] who was recently sentenced to 15 months in prison for advancing these arguments. See United States v. Rose, 2005 WL 3216739 (E.D.Pa., May 25, 2005). The Commission will make no attempt to either set out in detail the arguments espoused by the petitioner or go into a detailed analysis of why the arguments are without merit. The arguments are not new. They have been addressed by the courts and have been summarily rejected. The Commission similarly rejects these arguments.

WHEREFORE, the Notice of Deficiency Determination dated March 1, 2006, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following taxes, penalty, and interest (calculated to November 15, 2006):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$23,964	\$5,991	\$4,987	\$34,942
2003	3,792	948	589	<u>5,329</u>
			TOTAL DUE	\$40,271

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

An explanation of the petitioner's rights to appeal this decision is enclosed with this decision.

DATED this ___ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ___ day of _____, 2006, 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.
