

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19687
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On July 26, 2006, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 2004 in the total amount of \$599.

On September 25, 2006, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided no additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Commission received a 2004 Idaho fiduciary income tax return [Redacted] (Trust). The fiduciary/trustee [Redacted] was the taxpayer, [Redacted]. The Trust did not have a federal taxpayer identification number; it used the taxpayer's social security number. The Trust's income for the year came from wages earned by the taxpayer. The Trust's return requested a refund of a substantial portion of the taxpayer's withholdings. These peculiar entries on a trust return led the Tax Commission's processing section to refer the return to the Tax Discovery Bureau (Bureau) for review.

Since the Trust's income was from the taxpayer's wages, the Bureau researched the Tax Commission's records to see if the taxpayer had filed an individual income tax return for 2004. The taxpayer had not. The Bureau determined the taxpayer was required to file an individual income tax return and prepared a return based on the information available. The Bureau then sent the taxpayer a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination stating the Bureau was wrong in its statement that he failed to file an income tax return. He said the fact that the Notice of Deficiency Determination showed a disallowed refund is proof that a return was filed. He stated he filed an income tax return and it was the proper tax return.

The Bureau referred the matter for administrative review. The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. A follow-up letter was sent to the taxpayer, but still he failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayer claimed he filed the proper tax return: a 2004 fiduciary income tax return for the Trust. The return showed the Trust was a simple trust with the taxpayer being the fiduciary/trustee. The return reported the taxpayer's W-2 wages as income reduced by fiduciary expenses. The Trust's income was not distributed, as required, so the Trust reported tax owing on the return. The Trust also claimed the taxpayer's withholdings, so the net result for the Trust was a refund.

Trusts are generally treated as separate taxpayers and are taxed in the same way as individuals. The gross income of a trust is the same as gross income for an individual. A trust usually derives its income from dividends, interest, rents, royalties, capital gains, ordinary gains, etc. However, wages paid to an individual are not income to a trust. If an individual transfers his wages to a trust, they are considered contributions to the trust rather than income. Reporting an individual's earnings on a trust's return overlooks a fundamental principle of taxation, which is that earned income (wages, salaries, and other compensation for services) is always taxable to the person that earned the income. Lucas v. Earl, 281 U.S. 111 (1930); United States v. Bayse,

410 U.S. 441 (1937). Therefore, regardless of whether the taxpayer transferred or assigned his W-2 wages to the Trust, he is required to report his income on his personal income tax return.

The taxpayer did not file an individual income tax return for tax year 2004. He filed a fiduciary income tax return for the Trust. The taxpayer had earned income in excess of the filing threshold of Idaho Code section 63-3030. He should have filed an individual income tax return. The Tax Commission reviewed the return the Bureau prepared and found it to be a reasonable representation of the taxpayer's taxable income.

Therefore, the Tax Commission finds that the taxpayer was required to file an individual income tax return and that the return prepared by the Bureau accurately reflects the taxpayer's Idaho income tax liability.

WHEREFORE, the Notice of Deficiency Determination dated July 26, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$448	\$112	\$39	\$599
		LESS	REMITTANCE	<u>599</u>
			BALANCE DUE	<u>\$ 0</u>

An explanation of the petitioner's right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, 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]
[REDACTED]

Receipt No.
