

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20253
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On January 3, 2007, the staff of the Audit Development Unit of the Idaho State Tax Commission issued a Notice of Deficiency Determination [Redacted] (taxpayer) proposing additional income tax and interest for the taxable year 2004 in the total amount of \$766.

On March 3, 2007, 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 not provided anything further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer timely filed a 2004 resident short form (Form 40EZ) Idaho individual income tax return. The Audit Development Unit (Bureau) reviewed the taxpayer's return after receiving information [Redacted] that showed the taxpayer's 2004 federal taxable income was greater than the taxable income reported on his Idaho income tax return. The Bureau sent the taxpayer a letter asking him to explain why his federal taxable income was different from his Idaho taxable income. The taxpayer did not respond. Because the taxpayer filed a Form 40EZ, the Bureau determined the taxpayer should have reported all his income to Idaho. (See Idaho Code section 63-3002.) Therefore, the Bureau adjusted the taxpayer's Idaho return to report the same income as what was reported to the Internal Revenue Service.

The Bureau sent the taxpayer a Notice of Deficiency Determination which the taxpayer protested. The taxpayer stated he was a part-time resident of Idaho in 2004. He also stated he did

not owe tax to Idaho on income he did not earn in Idaho. The Bureau asked the taxpayer to provide additional information about his resident status, but the taxpayer did not respond to any of the Bureau's letters.

The Bureau referred the matter for administrative review. The Tax Commission sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not respond to the Tax Commission's initial letter or its follow-up letter. Therefore, the Tax Commission decided the matter based upon the information available.

Idaho Code section 63-3002 states that the Idaho income tax act is to be identical to the Federal Internal Revenue Code relating to the measurement of taxable income. Therefore, Idaho taxable income shall be the identical sum reported to the Internal Revenue Service subject to modifications contained in the Idaho law. This code section also states it is the intent of the act to impose a tax on residents of Idaho measured by Idaho taxable income wherever derived.

If the taxpayer was a resident of Idaho, as he purported to be by filing a Form 40EZ, he was required to report his income from all sources to Idaho. Yet, the taxpayer stated he was a part-year resident, and his income earned outside Idaho was not taxable by Idaho. However, other than these statements, the taxpayer has offered nothing to support his position that he was a part-year resident.

In Idaho, it is well established that a Tax Commission deficiency notice is presumed to be correct and the taxpayer bears the burden of showing that the deficiency is in error. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer has done little to overcome this burden. However, other information available to the Tax Commission does tend to support the taxpayer's statements. On December 3,

2004, the taxpayer acquired what appears to be his first and only Idaho driver's license. [Redacted]. In addition to the driver's license information, [Redacted] shows the taxpayer's employment history in Idaho beginning in the fourth quarter of 2004. These third party sources bear witness that it was highly probable the taxpayer was a part-year resident of Idaho in 2004.

Considering the aforementioned information, the Tax Commission finds that the taxpayer reported his Idaho income tax on the incorrect tax form. The taxpayer should have filed a Form 43 Idaho Nonresident and Part-year Resident return rather than a Form 40EZ. Therefore, the Tax Commission corrected the taxpayer's filing and computed his Idaho taxable income in accordance with Idaho Code section 63-3026A. The resulting deficiency is due to the proration of the taxpayer's personal exemption and standard deduction in the ratio that Idaho income bears to total income (Idaho Code section 63-3026A(4)).

WHEREFORE, the Notice of Deficiency Determination dated January 3, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$ 81	\$ 15	\$ 96

Interest is computed to February 15, 2008.

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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

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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]

Receipt No.

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