

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

In the Matter of the Protest of )  
 )  
[Redacted], ) DOCKET NO. 21228 & 21348  
 )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

On February 22, 2008 and June 24, 2008, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued Notices of Deficiency Determination to [Redacted] (taxpayer) proposing additional income tax, penalty, and interest for the taxable years 2004 and 2005 in the total amount of \$1,401 and \$723, respectively.

The taxpayer protested and filed timely petitions for redetermination. The taxpayer requested a telephonic hearing but failed to respond to scheduling a date and time for the hearing. The Tax Commission, having reviewed the file, hereby issues its decision.

**BACKGROUND**

The taxpayer timely filed his Idaho individual income tax returns for the taxable years 2004 and 2005. However, each of the taxpayer's returns omitted non-employee compensation the taxpayer received each year. [Redacted]. The Tax Discovery Bureau (Bureau) reviewed the information and the taxpayer's Idaho income tax returns and determined the income was omitted on the taxpayer's Idaho income tax returns as well. The Bureau corrected the taxpayer's returns and sent him separate Notices of Deficiency Determination. The taxpayer appealed both Notices.

The taxpayer stated the income in question was earned [Redacted] and was exempt [Redacted]. The taxpayer stated where he lived and provided a copy of his driver's license as proof. He stated where the income was earned and provided a copy of the 1099 showing the

address where he worked. The taxpayer [Redacted] provided a copy of his birth certificate. The Bureau asked the taxpayer for a copy of his [Redacted] membership card. The taxpayer responded that he was unaware he needed a special number [Redacted] and that he was starting the process to obtain such a number.

The Bureau determined the matter needed a legal interpretation [Redacted], so the matter was referred 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 responded that he would like a telephone hearing but would like to postpone the hearing until February 2009 when he undoubtedly would be laid off for several months. He stated he was also in the process of enrolling [Redacted] but did not know how long that determination would take. The taxpayer stated he wanted the opportunity to write and explain how he got into this situation [Redacted].

The Tax Commission agreed to the postponement but asked that the taxpayer stay in contact with the Tax Commission on his progress and his employment status. The taxpayer did not provide any progress updates and failed to respond to a Tax Commission letter requesting dates and times for a telephone hearing. Since the taxpayer has not made any further effort to provide the Tax Commission with any additional information, the Tax Commission decided the matter based upon the information available.

**LAW AND ANALYSIS**

Idaho Income Tax Administrative Rule IDAPA 35.01.01.033.02 provides that certain income is exempt from Idaho income taxation. It states:

An enrolled member of a federally recognized Indian tribe who lives on a federally recognized Indian reservation is not taxed on income derived within the reservation.

[Redacted]. He provided information that verified those statements. Accordingly, the taxpayer met two of the three requirements stated in the rule; [Redacted]. However, the taxpayer was not an enrolled member [Redacted]. The taxpayer provided a copy of his birth certificate [Redacted], but that by itself does not establish that the taxpayer was an enrolled member [Redacted].

The exemption from income taxation is not merely a function of ethnicity. The exemption stems from the political nature [Redacted]. Therefore, [Redacted] to be able to claim his income is exempt, he must show that he is an enrolled member [Redacted]. The taxpayer stated he was unaware of the enrolled member requirement and that he was in the process of getting enrolled [Redacted]. However, since he was not an enrolled member during the years in question, the taxpayer cannot exempt his income.

Therefore, [Redacted], he is afforded none of the exemptions available [Redacted].

WHEREFORE, the Notices of Deficiency Determination dated February 22, 2008, and June 24, 2008, are hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty and interest (computed to September 15, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$1,126	\$ 56	\$313	\$1,495
2005	598	30	166	794
			TOTAL DUE	<u>\$2,289</u>

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.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, 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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