

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 23066
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

**HISTORY**

On April 5, 2010, The Idaho State Tax Commission’s Tax Discovery Bureau (TDB) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) for Idaho income tax for years 1999 and 2001 through 2006. This NODD was based on [Redacted] income information because the taxpayer did not file returns for any of those years.

Taxpayer sent a letter to the Commission on May 18, 2010, asserting that he was not required to file [Redacted] income tax returns, and, therefore, was not required to file state income tax returns under Idaho Code § 63-3030 and that he was not going to do so unless provided with a hard copy of the law that requires returns be filed. The taxpayer further explained that a former [Redacted] had told him that participation (presumably in [Redacted] tax payment) is voluntary. The taxpayer followed up this letter with a brief note to the Commission on June 8, 2010, that seems to reiterate his position. The Idaho State Tax Commission (Commission) acknowledged the taxpayer’s protest of the NODD on June 8, 2010. On July 15, 2010, TDB cancelled the NODD for taxable years 2005 and 2006 because of the discovery of withheld amounts that covered the taxpayer’s income tax due for those years.

On January 28, 2011, the Commission sent the taxpayer a letter explaining his hearing rights and the process involved in scheduling a hearing. The taxpayer was given until February 28, 2011, to respond. Since then, however, the taxpayer has never responded, nor communicated with the Commission in any other manner.

#### ARGUMENT

The taxpayer's argument that he is not required to file Idaho income tax returns for the years in question is erroneous, and also frivolous, because it is not based in any identifiable law or legal determination. Instead, the Taxpayer relies on his own cursory interpretation of the text of Idaho Code § 63-3030 without any analysis, cross-reference, or case law supporting his position.

The requirement to file Idaho income tax returns is found in Idaho Code § 63-3030, which states in pertinent part:

63-3030. PERSONS REQUIRED TO MAKE RETURNS OF INCOME. (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

Internal Revenue Code (IRC) § 6012(a)(1)(A) identifies those required to make federal income tax returns as “every individual having for the taxable year gross income which equals or exceeds the exemption amount.” Subsection (a)(1)(D)(ii) of that code refers to IRC § 151(d) for a definition of the term “exemption amount.” That section identifies how to determine exemption amount based on income and dependents, and identifies a default amount of two thousand dollars (\$2,000).

Due to a lack of information provided by the taxpayer, including and especially that information normally found on income tax returns, it is impossible to exactly compute the

relevant exemption amount. However, according to the taxpayer's [Redacted] income records, his income for every pertinent year is far in excess of that amount necessary to require filing [Redacted] income tax returns. In turn, because the taxpayer is required to file [Redacted] income tax returns for taxable years 1999 and 2001 through 2004, he is also required to file Idaho income tax returns through operation of Idaho Code § 63-3030, as detailed above.

The taxpayer's belief that filing [Redacted] income tax returns and paying income tax is voluntary is also erroneous and frivolous. The only evidence the taxpayer brings forward of the voluntary nature of making [Redacted], or state, income tax returns is advice he claimed to receive on the subject from an unidentified, alleged, former [Redacted] agent. While both the [Redacted] 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 (10<sup>th</sup> Cir. 1990); Wilcox v. Commissioner, 848 F.2d 1007, 1008 (9<sup>th</sup> Cir. 1988); United States v. Witvoet, 767 F.2d 338, 339 (7<sup>th</sup> Cir. 1985).

The taxpayer also asks that the Commission further prove its case to him before he complies with the filing requirements already identified to him in the NODD. However, courts in Idaho have determined that an NODD issued by the Commission is presumed to be correct, and the burden is on the taxpayer to show that the tax deficiency is erroneous. 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).

#### CONCLUSION

The information submitted by the taxpayer in support of his protest has been reviewed. The taxpayer has failed to present any legal or factual information to dispute the basis of the NODD, and therefore failed to meet his burden to show that the NODD is incorrect.

THEREFORE, the NODD dated April 5, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL as to taxable years 1999 and 2001 through 2004.

IT IS ORDERED 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>
1999	\$3,331	\$ 833	\$2,419	\$ 6,583
2001	3,585	896	2,043	6,524
2002	4,158	1,040	2,102	7,300
2003	3,183	796	1,440	5,419
2004	661	165	259	<u>1,085</u>
			TOTAL DUE	<u>\$26,911</u>

Interest for the above deficiency is calculated through March 31, 2012.

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 \_\_\_\_\_ 2011.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

### CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2011, 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.  
  
\_\_\_\_\_