

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24147
[REDACTED],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated April 19, 2011, asserting Idaho income tax, penalty, and interest for taxable years 2005 through 2007 in the total amount of \$1,648. Petitioner does not believe the Tax Commission has the authority or jurisdiction to require her to file income tax returns or that she is a taxpayer engaged in a revenue taxable activity. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that Petitioner received wages from Idaho employment in 2005, 2006, and 2007. The Bureau reviewed the Tax Commission’s records and found that Petitioner did not file Idaho individual income tax returns for those years. The Bureau sent Petitioner a letter inquiring about her requirement to file Idaho individual income tax returns. Petitioner responded that she did not have enough income from the state of Idaho to require filing returns or paying taxes. The Bureau sent Petitioner additional information about filing Idaho income tax returns, to which Petitioner submitted documents stating she was not a person required to file or pay income taxes; she is a non-taxpayer.

The Bureau obtained additional information from the [Redacted] and determined Petitioner was required to file Idaho income tax returns. The Bureau prepared income tax returns for

Petitioner based upon information reported on W-2 Wage and Tax Statements and sent Petitioner a Notice of Deficiency Determination.

Petitioner protested stating the Bureau mistakenly sent her a Notice of Deficiency Determination and another publication entitled Your Rights as a Taxpayer. Petitioner stated she is not a taxpayer, so those documents do not apply to her. Petitioner continued with other statements regarding the Idaho Code's reliance on U.S. Tax Code Title 26 USC, the 16th Amendment of the U.S. Constitution, a direct tax without apportionment, franchise or excise tax on private individuals, revenue taxable activity, who and who is not a taxpayer, a tax on an individual merely for existing, and many more. All such statements made by Petitioner are in the same vein as those presented by tax protestors.

The Bureau acknowledged the Petitioner's contentions as a protest and referred the matter for administrative review. The Tax Commission sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner stated she would not be appearing before the Tax Commission staff as this was an option reserved for taxpayers, which she was not. Petitioner further stated more of the same banal rhetoric previously submitted to the Bureau. Seeing that Petitioner was vested in her arguments, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3030 states that every resident individual that is required to file a federal return under Internal Revenue Code (IRC) section 6012(a)(1) is required to file an Idaho income tax return. IRC section 6012 states that every individual having gross income that equals or exceeds the exemption amount in a taxable year shall file an income tax return. Petitioner's reported W-2 statements exceeded that amount for each of the years in question. Accordingly,

Petitioner should have filed income tax returns for 2005, 2006, and 2007.

The state of Idaho derives its jurisdiction by virtue of an individual residing within the boundaries of this state or if an individual has income from Idaho sources. In New York, ex rel Cohn v. Graves, 300 U.S. 308, 312-13 (1937) the court stated, “That the receipt of income by a resident of the territory of a taxing sovereignty is a taxable event is universally recognized. Domicile itself affords a basis for such taxation. Enjoyment of the privileges of residence in the state and the attendant right to invoke the protections of its laws are inseparable from responsibility for sharing the costs of government.” In Shaffer v. Carter, 252 U.S. 37, 52 (1920) the court stated, “And we deem it clear, upon principle as well as authority, that just as a State may impose general income taxes upon its own citizens and residents whose persons are subject to its control, it may, as a necessary consequence, levy a duty of like character, and not more onerous in its effect, upon incomes accruing to non-residents from their property or business within the State, or their occupations carried on therein; enforcing payment, so far as it can, by the exercise of a just control over persons and property within its borders.”

The Idaho legislature stated the purpose of the Idaho Income Tax Act in Idaho Code section 63-3002:

[t]o impose a tax on residents of this state measured by taxable income wherever derived and on the income of nonresidents which is the result of activity within or derived from sources within this state.

Petitioner is living in the state of Idaho. This fact by itself is enough to give Idaho jurisdiction to tax Petitioner’s income. New York, ex rel Cohn v. Graves, supra.

Petitioner’s statements are similar to frivolous tax protester arguments. Such “causes and beliefs” (arguments) have repeatedly been rejected by the courts. See Sego v. Commissioner, 114 T. C. 604 (2000); Nagy v. Commissioner, T. C. Memo 1996-24; Scott v. Dept. of Taxation, 2008

WL 4542978 (Vt.); United States v. Jagim, 978 F.2d 1032, 1036 (8th Cir. 1992).

Petitioner's principle argument is that the income tax is an indirect tax which can only be imposed upon revenue taxable activities. She states that a revenue taxable activity is one that is "so infected with culpability and is so utterly inappropriate for constitutional protection and so affects the public's interest that the public therefore has a right to compensate itself and punish the 'wrongdoer' with its revenue taxing powers." Petitioner states it would be an impossible task to list all the revenue taxable activities; nevertheless, her income is derived from the "free exercise of the constitutionally guaranteed right to lawfully acquire property (income or other compensation) by lawfully contracting one's own labor to engage in innocent and harmless activities for lawful compensation."

Petitioner stated she was not engaged in a revenue taxable activity. Yet, Petitioner was employed by [Redacted] and was paid \$16,204 for her labor in 2005, \$15,241 for her labor in 2006, and \$17,907 for her labor in 2007. Clearly, this activity yielded income for Petitioner which is included in the definition of gross income found in IRC section 61. Since gross income is the starting point in determining taxable income and compensation for labor is considered a part of gross income, Petitioner had taxable income. Petitioner's argument of not engaging in revenue taxable activities is irrelevant and not applicable.

Petitioner went to great lengths discussing the difference between a taxpayer and a non-taxpayer. Petitioner argues the distinguishing factor between a taxpayer and a non-taxpayer is that a taxpayer has incurred the wrath of society because of his revenue taxable activity. However, even in the most general sense the difference between a taxpayer and a non-taxpayer is that a taxpayer is one who pays a tax. This argument is only relevant in that Petitioner has not paid her tax.

Suffice it to say, Petitioner's arguments are tedious, and the logic is arduous and self-serving to Petitioner. In most, if not all, of Petitioner's arguments she cites phrases or sentences from court cases that are taken out of context to fit her particular need or are totally distinguishable from the case at hand.

Petitioner failed to put forth an argument worthy of consideration. Furthermore, Petitioner did not provide anything to show the Bureau's provisional income tax returns were incorrect. A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-75 n.2, 716 P.2d 1344, 1346-47 n.2 (Ct. App. 1986). Therefore, the burden is on Petitioner to show that the tax deficiency is erroneous. The Tax Commission reviewed the provisional returns the Bureau prepared and found them to be a fair representation of Petitioner's taxable income for taxable years 2005 through 2007.

CONCLUSION

Petitioner has not shown that the reported income was not received or cited relevant authority indicating that the income was not subject to the Idaho income tax. Petitioner's income exceeded the threshold for filing income tax returns and the returns prepared by the Bureau seem to be reasonable, based upon the information available. Accordingly, the Tax Commission upholds the Notice of Deficiency Determination.

The Bureau added interest and penalty to Petitioner's Idaho tax liability. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated April 19, 2011, and directed to [Redacted] is AFFIRMED.

IT IS ORDERED that the Petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$364	\$ 91	\$131	\$ 586
2006	292	73	87	452
2007	455	114	103	<u>672</u>
			TOTAL DUE	<u>\$1,710</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 _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.
