BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 24168
[Redacted],	)	
	)	
Petitioner.	)	DECISION
	)	

[Redacted](Petitioner) protested the Notice of Deficiency Determination dated May 4, 2011, asserting Idaho income tax, penalty, and interest for taxable years 2005 through 2009 in the total amount of $12,285. The petitioner does not believe the Tax Commission has the authority or jurisdiction to require him to file income tax returns. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Tax Discovery Bureau (Bureau) received information that the petitioner received wages from Idaho employment in 2005 through 2009. The Bureau reviewed the Tax Commission's records and found that the petitioner did not file Idaho individual income tax returns for those years. The Bureau sent the petitioner a letter inquiring about his requirement to file Idaho individual income tax returns. The petitioner failed to respond, so the Bureau obtained additional information [Redacted]. The Bureau determined the petitioner was required to file Idaho income tax returns, so it prepared returns for the petitioner based upon information reported on several W-2 statements and sent the petitioner a Notice of Deficiency Determination.

The petitioner's response to the Notice of Deficiency Determination was a "DEMAND FOR DISCLOSURE OF PROOF OF AUTHORITY AND JURISDICTION UNDER THE AUTHORITY OF THE FREEDOM OF INFORMATION ACT." The petitioner stated that until the authority and jurisdiction issue is settled, the issue of a tax deficiency is left standing without

effect of law and the Tax Commission has no legal standing or recourse. The petitioner stated Title 26 USC has never been passed into law nor have many of its associated regulations been printed in the Federal Register; therefore, Title 26 USC only applies to federal employees. The petitioner made other similar statements which 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 the petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The petitioner's response was more of the same banal rhetoric previously submitted questioning the Tax Commission's authority. Seeing that the petitioner's arguments would be never ending, 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. The petitioner's reported W-2 statements exceeded that amount for each of the years in question. Accordingly, the petitioner should have filed income tax returns for 2005, 2006, 2007, 2008, and 2009.

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. 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.

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

The 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).

The petitioner failed to 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); Albertson's Inc., v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the taxpayer to show that the tax deficiency is erroneous. Therefore, the Tax Commission finds the provisional returns

to be a fair representation of the petitioner's taxable income for taxable years 2005 through 2009.

CONCLUSION

The 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. The 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 the 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 May 4, 2011, [Redacted] is AFFIRMED.

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

YEAR	TAX	PENALTY	INTEREST	TOTAL
2005	$1,438	$360	$479	$ 2,277
2006	2,077	519	561	3,157
2007	2,115	529	424	3,068
2008	2,411	603	328	3,342
2009	510	128	44	682
			TOTAL DUE	$12,526

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 _____ 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.

_____