

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25982
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (Petitioner) protested a Notice of Deficiency Determination issued by the Idaho State Tax Commission (Commission). The Commission mailed Petitioner a hearing rights letter on November 7, 2013, informing petitioner of his right to an informal hearing before a Commission representative or to request the Commission issue a decision on the matter based on the evidence and record before the Commission. On December 4, 2013, the Commission received Petitioner’s response to the hearing rights letter. Petitioner stated that he did not consent to the Commission issuing a decision nor did he wish to appear for a hearing.

Having considered all evidence on file and the arguments presented by Petitioner, the Commission is prepared to issue its decision on the matter.

BACKGROUND

Petitioner failed to file Idaho individual tax returns for taxable years 2009, 2010, and 2011. On February 8, 2013, the Tax Discovery Bureau sent Petitioner a letter notifying him of the missing 2009 through 2011 Idaho individual income tax returns. Prior to issuing a Notice of Deficiency Determination (NODD), the Tax Discovery Bureau received a communication from Petitioner wherein he indicated that he did not have an Idaho filing requirement. The Tax Discovery Bureau issued the NODD on March 19, 2013. The NODD determined Petitioner owed \$1,723 in tax, interest, and penalties for taxable years 2009 through 2011. The NODD included a description of Petitioner’s appeal rights. If Petitioner disagreed with the NODD, he

was required to submit a protest in writing within 63 days after the NODD was mailed.

The time to protest the NODD expired on May 21, 2013. The case was sent to the Commission's Collection and Compliance department for processing. On July 5, 2013, the Collection and Compliance department sent Petitioner a notice and demand of payment for the 2009, 2010, and 2011 taxable years. Petitioner responded by a letter dated July 12, 2013, wherein he indicated he previously supplied a protest to the action contemplated by the Commission in his February communication. In response, the Tax Discovery Bureau requested Petitioner perfect his appeal by providing certain required information, which Petitioner responded to in a letter dated August 23, 2013. Upon review, a Tax Enforcement Specialist determined that the February 28, 2013, letter and Petitioner's later correspondence created a timely petition for redetermination.

Petitioner's position regarding his tax filing requirement for taxable years 2009 through 2011 rely heavily on a 2003 Internal Revenue Manual (IRM) 6209. According to this IRM, he believed that his wages, which were reported to him on [Redacted] form W-2s and form 1099's, are "tax class 5 items." According to Petitioner, tax class five items are properly reported to [Redacted] on Form 709, which is a gift and generation skipping transfer tax return. Petitioner further opined that Idaho's individual income tax filing requirement is based upon the [Redacted] form 1040, which he identified as "class 2." Petitioner believes because he is not required to file a Form 1040, he is not, therefore, required to file an Idaho individual income tax return. Moreover, Petitioner asserted the Commission is committing fraud against him by requiring him to reclassify his W-2 and 1099 income from class 5 (reported on the Form 709) to class 2 (reported on Form 1040).

ANALYSIS

The Commission is not persuaded by Petitioner's argument. The arguments made by Petitioner are not supported by any appropriate legal authority. Petitioner has not convinced the Commission that he is somehow immune from his legal obligation to file an Idaho income tax return and to pay his taxes.

Internal Revenue Code (IRC) section 6012 and the regulations thereunder require Petitioner to file a [Redacted] income tax return if he receives income in excess of the exemption amount. For taxable years 2009 and 2010 the exemption was \$3650, and for taxable year 2011 the exemption amount was \$3700. Idaho Code § 63-3030(a)(1) requires each Idaho resident to file an Idaho income tax return if he is required to file a [Redacted] return.

The Commission received tax information showing that Petitioner received \$12,146 in wages for taxable year 2011, \$20,144 in wages for taxable year 2010, and \$20,605 in wages for taxable year 2009. Petitioner has not denied these amounts. Petitioner received wages in excess of the exemption amounts for each taxable year at issue. Under IRC § 6012, Petitioner was required to file a [Redacted] income tax return. Thus, Petitioner was also required to file an Idaho individual income tax return under Idaho Code §63-3030(a).

Petitioner's reliance on the 2003 IRM is unfounded. The 2003 IRM 6209 contains directions to [Redacted] employees regarding policies and procedures of [Redacted]. Procedures contained in the IRM are not binding on [Redacted]. The IRM is not issued as part of [Redacted] delegation of authority by Congress and, therefore, does not have the force and effect of law. Thus, while the IRM may offer insight into [Redacted] procedures, and it may be helpful for taxpayers and practitioners, the IRM is not authoritative legal precedent. Moreover, the IRM in question is outdated, as the [Redacted] has issued several iterations of the manual since the 2003

version.

It appears from Petitioner's communications that Petitioner also believes that wages are not income. The [Redacted], the Commission, and numerous courts have addressed and rejected positions similar to Petitioner's. It is well settled law that wages are income. See e.g. Idaho State Tax Comm'n v. Payton, 107 Idaho 258 (1984), Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (1986).

CONCLUSION

It is clear from the record that Petitioner was required to file Idaho income tax returns. Petitioner failed to present any information to dispute the factual basis of the NODD. It is well settled in Idaho that an NODD issued by the Idaho State Commission is presumed to be correct. 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). The burden is on Petitioner to show that the tax deficiency is erroneous. Id. Aside from Petitioner's legal challenges discussed above, Petitioner has not contested the amount of tax, penalty, or interest determined to be deficient.

THEREFORE, the NODD dated March 19, 2013, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2011	\$ 78	\$ 20	\$ 5	\$ 103
2010	582	146	62	790
2009	615	154	95	<u>864</u>
			TOTAL DUE	\$1,757

Interest for the above deficiency is calculated through March 15, 2014.

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 _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.