

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 0-064-638-976
[Redacted],)
)
)
Petitioner.) DECISION
)
_____)

On May 21, 2015, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (Petitioner) asserting income tax, penalty, and interest in the amount of \$4,129 for the 2010, 2011, 2012, and 2013 taxable years. The notice advised the Petitioner that, if he disagreed with the deficiency determined by the Bureau, he could petition the Tax Commission for a redetermination.

The Petitioner timely filed a letter of protest titled “WITHOUT PREJUDICE” that the Commission treated as a petition for redetermination. In a letter dated July 28, 2015, the Commission notified the Petitioner that he could meet with a Commissioner or a designee in an informal conference to discuss the deficiency determined by the Bureau, or, in the alternative, submit additional information to show why the deficiency should be redetermined. The Petitioner responded to this letter with a “Constructive notice” which contained tax protestor rhetoric. The Petitioner did not submit any additional information for the Tax Commission to consider.

This decision is based on the information contained in the Commission’s files. The Commission has reviewed the files, is advised of their contents, and now issues this decision. For the reasons set forth below, the Commission affirms the deficiency determined by the Bureau with interest updated through January 22, 2015.

This is a nonfiler case. The Petitioner lives in Idaho and did not file Idaho individual income tax returns for the 2010 through 2013 taxable years. Based on information obtained by the Tax Commission's tax enforcement specialist, it appeared that the Petitioner had an Idaho income tax filing requirement. Information received from W-2s and 1099's show the Petitioner received income of approximately \$15,361 during taxable year 2010, \$19,264 during taxable year 2011, \$26,969 during taxable year 2012, and \$30,986 during taxable year 2013.

Based on this income information, the Tax Discovery Bureau prepared provisional returns for the Petitioner. The Bureau provided the Petitioner with personal deductions and exemptions and allowed identified Idaho withholding for taxable year 2012. Once completed, the provisional returns showed a tax deficiency existed for each of the years at issue. The Bureau then issued a Notice of Deficiency Determination which included a description of the information relied upon, a copy of the provisional returns, a document showing the calculation of interest, and an explanation of the Petitioner's right to request a redetermination of the deficiency.

The Petitioner responded to the Notice of Deficiency Determination by sending a letter which stated, in regards to the NODD, "I refute the validity of the untested claim, without dishonor. I am not made liable. Without Prejudice UCC 1-308,(207)." Petitioner also returned the NODD to the Commission after stamping it with the following statements; Without Prejudice UCC 1 207, and REFUSAL FOR CAUSE WITHOUT DISHONOR U.C.C. 3-501. The Petitioner's correspondence also asserts he is an "American Sovereign National Citizen" and therefore, the state of Idaho has no legal authority to file the Notice.

State and federal courts have rejected these common tax protestor themes time and time again. In Coleman v. Commissioner of Internal Revenue, 791 F.2d 68, Judge Easterbrook penned,

Some people believe with great fervor preposterous things that just happen to coincide with their self-interest. “Tax protesters” have convinced themselves that wages are not income, that only gold is money, that the Sixteenth Amendment is unconstitutional, and so on. These beliefs all lead--so tax protesters think--to the elimination of their obligation to pay taxes. The government may not prohibit the holding of these beliefs, but it may penalize people who act on them.

The Petitioner asserts some of the same arguments discussed by Judge Easterbrook. He believes his tax obligation has somehow been eliminated despite the fact that they live and earn a living in Idaho.

To the extent that the Petitioner argues he is not required to file an income tax return because he is a sovereign citizen, and thus not a person liable for income taxes, the argument is frivolous. This argument has been consistently and thoroughly rejected by every branch of the government for decades. U.S. v. Studley, 783 F.2d 934, (9th Cir. 1986). Furthermore, claiming such utterly meritless arguments is now the basis for serious sanctions imposed on the civil litigants who raise them. *Id.*

To the extent that the Petitioner believes the Uniform Commercial Code governs state tax agencies, his belief is mistaken. Idaho law and not the Uniform Commercial Code governs matters concerning Idaho’s individual income tax. The United State Supreme Court has long recognized that the right to tax is a crucial attribute of state sovereignty. M’Culloch v. Maryland, 17 U.S. 316, 428 (1819). “The power to tax rests solely with the legislature, and is subject only to constitutional limitations.” Richey v. Indiana Dept. of State Revenue, 634 N.E.2d 1375, 1376 (Ind. Tax Ct. 1994). The Idaho legislature authorized the Commission to issue a Notice of Deficiency Determination to taxpayers who have not met their Idaho individual income tax filing and

payment obligations. Idaho Code § 63-3045. The Uniform Commercial Code applies only to commercial transactions; it has no bearing on a determination of tax matters. Therefore, the Tax Commission finds the UCC argument inapplicable to the matter at hand.

Persons who are required to file an Idaho individual income tax return must pay Idaho income tax on their taxable income at the rate set forth in Idaho Code § 63-3024. In the event a person fails to file a tax return or to pay the proper amount of individual income tax, Idaho law specifically provides the Commission with the authority to issue a Notice of Deficiency Determination.

63-3045. Notice of redetermination or deficiency – Interest. –

(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer

It is well settled in Idaho that provisional returns determined by the Idaho State Tax Commission are presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Com'n, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the Petitioner to show that the tax deficiency is erroneous. *Id.* The Petitioner has failed to show that the provisional returns prepared by the Tax Commission are incorrect. Therefore, based on the information available, the Tax Commission finds the provisional returns to be a fair representation of the Petitioner's taxable income for the taxable years in question and that the amounts shown due on the Notice of Deficiency Determination are true and correct.

THEREFORE, the Notice of Deficiency Determination dated May 21, 2015, and directed to [Redacted], is hereby APPROVED and MADE FINAL.

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>
2010	\$ 245	\$ 61	\$ 49	\$ 355
2011	503	126	72	701
2012	1,033	258	104	1,395
2013	1,320	330	91	<u>1,741</u>
			TOTAL DUE	<u>\$4,192</u>

Interest is calculated through January 22, 2016 and will continue to accrue until paid.

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 _____ 2015.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2015, 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.
