

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-255-684-608
[REDACTED])	
)	
Petitioner.)	DECISION
<hr style="width: 45%; margin-left: 0;"/>)	

On March 15, 2019, the Revenue Operation’s Central Processing Bureau (Bureau) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to [REDACTED] (Petitioner), proposing income tax of \$871 for tax year 2018. As a result, Petitioner’s \$502 refund was disallowed and a tax due of \$369 was assessed.

On April 12, 2019, and May 17, 2019, the Bureau received a timely appeal and petition for redetermination of the Notice. On September 26, 2019, the Tax Appeals Unit at the Tax Commission sent a letter to Petitioner, outlining his options for redetermination. Petitioner did not respond. Therefore, a final decision was made based on the information currently available. The Tax Commission hereby issues its decision to uphold the Notice.

For tax year 2018, Petitioner attempted to reduce his income tax liability by filing a tax return that reported no income and no tax liability (a “zero return”) even though he had taxable income. Petitioner requested a refund of taxes withheld by his employer. Petitioner relied on one or more frivolous arguments to support his position.

A taxpayer that has taxable income cannot legally avoid income tax by filing a zero return. Internal Revenue Code section 61 provides that gross income includes all income from whatever source derived, including compensation for services. Courts have repeatedly penalized taxpayers for making the frivolous argument that the filing of a zero return can allow a taxpayer to avoid income tax liability or permit a refund of tax withheld by an employer. Courts have also imposed the frivolous return and

failure to file penalties because these forms do not evidence an honest and reasonable attempt to satisfy the tax laws or contain sufficient data to calculate the tax liability, which are necessary elements of a valid tax return. See *Beard v. Commissioner*, 82 T.C. 766, 777-79 (1984). Also, the courts often decline “to refute [frivolous] arguments with somber reasoning and copious citation of precedent” for a variety of reasons. *Aldrich v. Commissioner*, T.C. Memo. 2013-201, 106 T.C.M. (CCH) 192 (2013); *Wnuck v. Commissioner*, 136 T.C. 498 (2011) (quoting *Crain v. Commissioner*, 737 F.2d 1417, 1417 (5th Cir. 1984).

This is not the first time Petitioner had attempted to reduce his tax liability by filing a zero return. See Docket No. 1-785-857-024. The Tax Commission notes that Petitioner filed his 2018 return on the day he received the 2017 decision by certified mail. Additionally, Petitioner continued to make frivolous arguments for tax year 2018 after he received the 2017 decision.

Idaho Code section 63-3046(b) provides if any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected and paid. The Tax Commission did not assess any penalties for tax year 2017 and 2018. However, the Tax Commission may assess penalties if Petitioner continues to rely on frivolous arguments.

On appeal, a deficiency determination issued by the Tax Commission “is presumed to be correct, and the burden is on the taxpayer to show that the Commission’s decision is erroneous.” *Parker v. Idaho State Tax Comm’n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson’s Inc. v. State Dep’t of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Tax Commission requires the Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, the Petitioner did not provide adequate evidence. As a result, the Commission will uphold the Notice.

THEREFORE, the Notice of Deficiency Determination dated March 15, 2019, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

<u>YEAR</u>	<u>REFUND</u>	<u>TAX</u>	<u>TOTAL</u>
2018	(\$502)	\$871	\$369

There is no DEMAND for payment because on April 12, 2019, Petitioner paid the Notice of Deficiency Determination under protest.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2020.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2020,
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.

