

Petitioner protested stating the Bureau's assumptions were arbitrary and capricious. Petitioner stated there is no basis for the Bureau's claim that he is a citizen of the United States and a resident of Idaho. Petitioner stated that since the IRS accepted his 2015, 2016, and 2017 federal income returns as a nonresident alien, Idaho must accept his nonresident alien status too. Petitioner stated he is clearly not the taxpayer on the W-2s filed by [REDACTED] and he is not the taxpayer on the forms 1099-G filed by Washington State Employment Security Department. Petitioner also stated the W-2 forms from [REDACTED] and [REDACTED] [REDACTED] are in error because there was no remuneration paid in the course of a trade or business. Petitioner's last argument is that the unemployment compensation reported by the Idaho Department of Labor is not included in gross income because his modified adjusted gross income is less than the base amount as provided in 26 CFR 1.85-1(b)(3).

The Bureau acknowledged Petitioner's protest and referred the matter to the Tax Commission's Appeals Unit (Appeals). Appeals sent Petitioner a letter describing the methods available for redetermining a Notice of Deficiency Determination. Petitioner did not respond. Seeing that Petitioner had opportunity to further his position, the Tax Commission decided the matter based on the information provided.

LAW AND ANALYSIS

Petitioner filed Idaho resident income tax returns since before 2005. Petitioner owns property in Latah County, Idaho, he claims the homeowner's exemption on a manufactured home in [REDACTED], Idaho, he is registered to vote in Idaho, and he has had an Idaho driver's license since at least 2007. All these facts show that Petitioner was and still is an Idaho resident.

Idaho Code section 63-3002 states, it is the intent of the legislature to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the income of

nonresidents which is the result of activity within or derived from sources within this state. Therefore, because Petitioner is a resident of Idaho, he is required to pay an income tax measured by his taxable income.

Petitioner claims he has no income or that his income is not subject to tax because he is a nonresident alien and his income came from foreign corporations. The notion that Petitioner is a nonresident alien is absurd on its face. Petitioner has lived and resided in Idaho for many years. *See Caniff v. Commissioner*, No. 94-2937, 1995 WL 216861, U.S.App. LEXIS 8613 (7th Cir. April 6, 1995); *LaRue v. U.S.*, 959 F.Supp. 959, (1997). Furthermore, a nonresident alien cannot, by definition, reside in the United States for more than 31 days. *See Internal Revenue Code* § 7701(b)(1)(B).

Regardless, Petitioner lived and worked in Idaho. Idaho's jurisdiction to tax is not dependent upon whether an individual is a citizen of the United States. Idaho's jurisdiction to tax is based on the fact that the individual lives within the borders of Idaho or had income from Idaho sources. The Idaho Legislature has clearly set forth that the Idaho income tax applies to residents of this state. The Legislature defined the term resident, and Petitioner has presented no evidence to show that he was not a resident as that term is defined.

Petitioner contends that his employers are foreign corporations and as such they are not in a trade or business within the United States. Petitioner further contends that with his status as a nonresident alien the income he received from his employers is exempt from tax. Suffice it to say, Petitioner's employers are not foreign corporations, but are businesses organized and operated in Idaho. Since it is already established that Petitioner is a resident of Idaho, all his income, from whatever source, is reportable to and taxable by Idaho.

Petitioner is correct that he did not receive the income reported on the W-2 from [REDACTED] and the unemployment compensation from Washington state; Petitioner's wife received the income. Petitioner reported on his income tax returns that he was married. Idaho and Washington are community property states. As such, half of the income Petitioner's wife earned, in either Idaho or Washington, is attributable to him, and half of Petitioner's income is attributable to his wife. Therefore, when filing his Idaho income tax return as married filing separate, Petitioner must include half of the income earned by his wife. *See Idaho Code section 32-906 and Parker v. Idaho State Tax Com'n*, 148 Idaho 842 (2010).

Petitioner also claimed that his unemployment compensation from the Idaho Department of Labor was not taxable. Petitioner claims the unemployment compensation he received was less than the base amount and therefore not taxable. Here Petitioner fails on two counts. First, if calculated correctly, Petitioner's modified adjusted gross income is substantially greater than the base amount Petitioner claims, which causes his unemployment compensation to be taxable. Second, since Petitioner is married and he did not file a married filing joint return with his spouse, for purposes of unemployment compensation, Petitioner's base amount is zero. (See Treas. Reg. §1.85-1(b)(3)(ii)). This also makes all of Petitioner's unemployment compensation taxable.

Petitioner's protest contained mostly frivolous tax protester material. Such "causes and beliefs" (arguments) have repeatedly been rejected by the courts in deciding cases arguing against the income tax. *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 has not shown that he did not receive the income, nor has he cited relevant authority stating that the income he received was not subject to Idaho income tax.

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, (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. *Parsons*, Id. Petitioner did not meet his burden; therefore, absent competent evidence to the contrary, the Notice of Deficiency Determination must be upheld on review.

CONCLUSION

Petitioner lives and works in Idaho; he is an Idaho resident. Petitioner received compensation from his employers; Petitioner had income. Petitioner's Idaho income tax returns did not report all his income. Petitioner provided nothing creditable that established his income was not taxable. Accordingly, the Tax Commission upholds the Notice of Deficiency Determination.

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

WHEREFORE, the Tax Commission AFFIRMS the Notice of Deficiency Determination dated June 18, 2019, directed to [REDACTED].

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2015	\$2,272	\$568	\$392	\$3,232
2016	2,095	524	284	2,903
2017	2,601	650	267	<u>3,518</u>
			TOTAL DUE	<u>\$9,653</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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 _____ 2019,
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:



Receipt No.

