

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|--------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 0-007-160-832 |
| |) | |
| |) | |
| Petitioners. |) | DECISION |
| <hr/> |) | |

The Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Tax Commission) sent (Petitioners) a Notice of Deficiency Determination (Notice) for tax years 2014 through 2020. Petitioners protested, and the case was transferred to the Tax Commission’s Appeals Unit (Appeals) for redetermination. The Tax Commission has reviewed the matter and hereby upholds the Notice issued by the Bureau.

BACKGROUND

The Bureau sent Petitioners requests to file Idaho tax returns for years 2014 through 2020. Petitioners did not respond, so the Bureau prepared the returns for them. The Bureau used information available to the Tax Commission such as W-2s, 1099s, etc. to estimate income and deductions. Petitioners protested, stating in part: “I and my wife, have the right to live and earn a living by the sweat of our brows and to perform services, to secure those rights, and we cannot be feed, fined, taxed, or penalized for the exercise of rights.” (sic) They continue to claim that wages or performance of services are not income and therefore not taxable. The Bureau acknowledged their protest and transferred the case to Appeals.

Appeals sent a letter to Petitioners on February 14, 2023, informing them of their right to schedule a hearing with a commissioner or to submit additional information for consideration. Petitioners decided to participate in an informal hearing over the phone on March 16, 2023. During the hearing, Petitioners argued common “sovereign citizen” and “tax protester” talking points like

their original protest. Petitioners stated many frivolous arguments throughout the hearing, but the main issues presented were the following:

1. State income tax is unconstitutional because it is taxing the same income twice.
2. Wages are not taxable and are considered “estate taxes” per Internal Revenue Code.
3. The use of CAPITALS in their name and address creates the Notice void, as they are not a corporation/trade or business.

LAW AND ANALYSIS

A. State Income Tax Is Unconstitutional

This argument is frivolous and is not based on any legal fact or statute. Article I, Section 8 of the Constitution gives Congress the power to “lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States.” This is also referred to as the “Taxing and Spending Clause.” Under the Sixteenth Amendment, Congress has the power to collect income taxes with the Internal Revenue Code being the main law governing such taxes. States are also allowed to impose and collect their own taxes, which include but are not limited to income taxes, sales taxes, and property taxes. Furthermore, the Idaho Legislature has deemed imposing income tax on Idaho residents constitutional and enacted Title 63 Chapter 30, “Income Tax.”

B. Wages Are Not Included in “Gross Income” Defined in Internal Revenue Code

Revenue Ruling 2007-19 authored by the Office of Associate Chief Council of the Internal Revenue Service lays out a comprehensive response to this argument. This revenue ruling is extensive and will not be quoted in its entirety, but this portion of the document can stand on its own:

“Courts have universally rejected the argument that labor is property that can be exchanged for wages or other compensation in a nontaxable transaction. See Casper

v. Commissioner, 805 F.2d at 905; Funk v. Commissioner, 687 F.2d at 265. Courts recognize a distinction between selling labor and selling or exchanging property. See Reading v. Commissioner, 70 T.C. 730, 733-34 (1978), aff'd, 614 F.2d 159 (8th Cir. 1980). Further, the courts have concluded that a taxpayer has no tax basis in one's labor and, therefore, the full amount of the wages or other compensation received represents gain which may be taxed as income. See, e.g., Casper, 805 F.2d at 905; Abrams, 82 T.C. at 407; Reading, 70 T.C. at 733-34.”

C. The Use of CAPITALS in Government Correspondence

This is another frivolous position based on the pseudo law concept of “strawman theory.” According to this theory, an individual has two personas, one of human flesh and blood and the other, a separate legal entity (usually written in CAPITALS) who is the “strawman.” The idea is that an individual’s debts, liabilities, taxes, and legal responsibilities belong to the strawman rather than the physical individual who ran up those obligations, conveniently allowing one to escape their debts and responsibilities. In reality, using CAPITALS in government documents such as driver’s licenses, birth certificates, tax notices etc. is done for ease of reading by humans and computers. There is no legal basis for this theory, and it is only considered a conspiracy theory by the courts.

D. Petitioners Meet the Legal Requirements to File Idaho Income Tax Returns

The Idaho income tax filing requirements are set out in Idaho Code section 63-3030. Any resident individual required to file a federal return under Internal Revenue Code section 6012(a)(1) must file an Idaho income tax return. Idaho Code section 63-3030(1). The term “resident” means any individual who is domiciled in the state of Idaho for the entire taxable year. Idaho Code section 63-3013(1)(a). Per IDAPA 35.01.01.030.02, “domicile” means “the place where an individual has his true, fixed, permanent home and principal establishment, and to which place he has the intention of returning whenever he is absent.” The Tax Commission’s records indicate Petitioners were Idaho residents during the years in question. Petitioners appear to not dispute that they lived

in Idaho during the taxable years at issue.

Domicile affords a basis for a state's individual income tax. As noted by the Court in *People of State of New York ex rel. Cohn v. Graves*, 300 U.S. 308, 312-13 (1937):

“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. Taxes are what we pay for civilized society. A tax measured by the net income of residents is an equitable method of distributing the burdens of government among those who are privileged to enjoy its benefits.”

Id. (internal citations omitted).

Petitioners met the filing requirement for each of the taxable years in question. 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 section 63-3024. When a person fails to file a required tax return or to pay the proper amount of individual income tax, the Tax Commission has statutory authority to issue a Notice of Deficiency Determination. Idaho Code section 63-3045. As Petitioners were Idaho residents required to file Idaho tax returns and pay Idaho tax, the Tax Commission correctly issued its Notice of Deficiency Determination.

E. Petitioners Have Not Shown Error in the Tax Commission's Notice

It is well settled that a Notice of Deficiency Determination issued by the Tax Commission is presumed to be accurate. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The burden is on Petitioners to show the deficiency is erroneous. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Petitioners have presented nothing but illogical and flawed tax protester rhetoric to support their protest. Such arguments are unconvincing. As a result, the Tax Commission finds that Petitioners did not meet their burden of proving error in the Tax Commission's Notice.

CONCLUSION

The Bureau estimated Petitioners’ income by using information available to the Tax Commission such as W-2s and 1099s. The Tax Commission finds this estimation to be reasonable. Without actual returns filed by Petitioners or evidence they are not required to file, the Tax Commission finds no reason to modify the Notice issued by the Bureau.

THEREFORE, the Notice dated December 22, 2022, and directed to
is hereby AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioners pay the following tax, penalty, and interest computed to
June 29, 2023:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 2014 | \$847 | \$212 | 257 | 1,316 |
| 2015 | 714 | 179 | 188 | 1,081 |
| 2016 | 961 | 240 | 217 | 1,418 |
| 2017 | 712 | 178 | 138 | 1,028 |
| 2018 | 931 | 233 | 140 | 1,304 |
| 2019 | 948 | 237 | 92 | 1,277 |
| 2020 | 2,513 | 628 | 169 | <u>3,310</u> |
| | | | TOTAL DUE | \$10,734 |

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

An explanation of Petitioners’ right to appeal this decision is enclosed.

DATED this _____ day of _____ 2023.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2023,
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.
