

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-442-284-544
)	
)	
Petitioners.)	DECISION
_____)	

The Tax Commission’s Tax Discovery Bureau (Bureau) sent (Petitioners) a Notice of Deficiency Determination (Notice) for tax years 2015 through 2020. Petitioners protested, and the case was transferred to the Tax Commission’s Appeals Unit (Appeals). The Tax Commission has reviewed the matter and hereby upholds the Notice.

BACKGROUND

The Bureau sent Petitioners requests to file Idaho tax returns for years 2015 through 2020. Petitioners did not respond, so the Bureau prepared the returns for them. For 2015, the Bureau used their federal adjusted gross income multiplied by a factor of 7/12ths, because information indicates they were residents of Idaho for seven out of twelve months. For the years 2016 through 2020, the Bureau estimated Petitioners’ income by multiplying their mortgage interest reported on IRS Form 1098 by four.

Petitioners protested, stating in part, “I am NOT one artificially created by government such as ‘Citizen’, ‘Person’, or ‘Resident’.” They further stated, “...my estate and/or trust is, as described in 26 USC section 7701 (a)(31), as a TAX EXEMPT foreign estate or trust.” The Bureau acknowledged their protest and transferred the case to Appeals.

Appeals sent a letter to Petitioners on November 18, 2022, informing them of their right to schedule a hearing with a commissioner or to submit additional information for consideration.

Petitioners did not respond or request a conference. Having received no adequate or intelligible response, the Tax Commission now issues this decision.

DISCUSSION

A. State National or Sovereign Citizen Arguments are Patently Frivolous and Lacking in Legal Merit

Petitioners appear to assert a common tax protester argument that they are a “state national” and are “non-resident aliens.” The tax protest movement is a relatively long-lived antigovernment movement. This language is similar to the “Sovereign Citizen” movement’s rhetoric. The FBI describes so-called Sovereign Citizens as “anti-government extremists who believe that even though they physically reside in this country, they are separate or ‘sovereign’ from the United States.” Caesar Kalinowski IV, *A Legal Response to the Sovereign Citizen Movement*, 80 Mont. L. Rev. 153 (2019) (citing *Domestic Terrorism, The Sovereign Citizen Movement*, F.B.I. (Apr. 13, 2010), <https://perma.cc/L8SQ-2K42>).

Courts have universally and consistently rejected claims of “sovereignty” to avoid federal and state income tax. *See, e.g., U.S. v. Hanson*, 2 F.3d 942, 945 (9th Cir. 1993) (rejecting defendant’s claims that he is a nonresident alien and thus not a “taxpayer” as defined in the tax code); *Lonsdale v. U.S.*, 919 F.2d 1440, 1448 (10th Cir. 1990) (rejecting taxpayer arguments claiming to be sovereign and not subject to tax; imposing sanctions); *U.S. v. Dawes*, 874 F.2d 746, 750-751 (10th Cir. 1989) (husband and wife are “persons” under the Internal Revenue Code subject to tax, despite contention that they were “free born” citizens); *U.S. v. Studley*, 783 F.2d 934, 937, n.3 (9th Cir. 1986) (“this [sovereign citizen] argument has been consistently and thoroughly rejected by every branch of the government for decades”); *Minovich v. C.I.R.*, T.C. Memo. 1194-39 (issuing sanctions against taxpayer claiming to be nonresident alien private citizen outside any taxing jurisdiction).

B. Petitioners Meet the Legal Requirements to File an Idaho Income Tax Return

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 do not dispute that they lived in Idaho during the taxable years at issue. Rather, they provide frivolous tax protester arguments regarding the legitimacy of taxation in general.

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).

According to information available to the Tax Commission, Petitioners met the requirements to file Idaho returns. 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.

C. 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 taxpayers 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 for 2016 through 2020 by multiplying their mortgage interest by a factor of four. The Tax Commission has reviewed this method of estimation and finds it to be reasonable. The Tax Commission upholds the Notice of Deficiency Determination dated September 8, 2022, for taxable years 2015 through 2020.

THEREFORE, the Notice dated September 8, 2022, and directed to

is hereby AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioners pay the following tax, penalty, and interest computed to May 15, 2023:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2015	\$7,115	\$1,779	\$1,829	\$10,723
2016	2,683	671	590	3,944
2017	3,534	884	661	5,079
2018	4,782	1,196	690	6,668
2019	604	151	55	810
2020	4,422	1,106	278	<u>5,806</u>
			TOTAL DUE	\$33,030

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.
