

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-511-569-408
)	
Petitioner.)	DECISION
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(Petitioner) protested the Notice of Deficiency Determination dated July 22, 2021. Petitioner disagreed that he was domiciled in Idaho in 2015, 2018, and 2019. Petitioner stated his compensation earned in 2016 and 2017 was not income and he owes no tax to Idaho. The Tax Commission reviewed the matter and found Petitioner’s income arguments frivolous and without merit, and regarding Petitioner’s domicile, the Tax Commission agrees with the audit staff’s determination.

BACKGROUND

Petitioner filed Idaho individual income tax returns in the early 2000s. The last Idaho income tax return Petitioner filed was for tax year 2005. Petitioner’s first Idaho driver’s license was acquired in 2003. In 2006 through 2010 and 2014, Petitioner filed federal income tax returns with a Montana address.

In 2015, the Idaho Department of Labor reported third and fourth quarter wages for Petitioner. The Tax Discovery Bureau (Bureau) found that information, while reviewing Tax Commission records, and also found that Petitioner had earned Idaho wages in 2016. The Bureau reviewed Petitioner’s filing information and found that he did not file Idaho income tax returns for 2015 or 2016, nor did he file returns for 2017 through 2019.

The Bureau sent Petitioner a letter asking about his requirement to file Idaho income tax returns. The Bureau’s letter was returned as not deliverable as addressed. The Bureau resent its letter

using another address Petitioner was identified with. Petitioner did not respond. The Bureau determined Petitioner was required to file Idaho income tax returns, so it prepared returns for Petitioner and sent him a Notice of Deficiency Determination covering the tax years 2015 through 2019.

Petitioner protested the Notice of Deficiency Determination stating he was not working or domiciled in Idaho in 2015. Petitioner stated his wife was domiciled in Idaho in 2015 to be closer to family, but that he did not owe tax to Idaho for 2015. Petitioner stated the compensation he received in 2016 and 2017 was not income, so he does not owe tax to Idaho for those years. For 2018, Petitioner stated he was domiciled in Montana in June and then Alaska in December. Petitioner stated he was no longer a citizen of Idaho after June 2018. Petitioner stated the compensation he received while an Idaho citizen in 2018 was not income; therefore, he owes no tax to Idaho. As for 2019, Petitioner stated he was not domiciled in Idaho, nor did he work in Idaho. Petitioner's protest included statements why he believes the compensation he received during these years is not income, citing various court cases. Petitioner's final statement was that in the United States we are afforded the right of the presumption of innocence under the constitution. Charging someone on an assumption and imposing a deadline to pay an erroneous fine based on the assumption is illegal under the constitution.

A couple of weeks after receiving Petitioner's letter of protest, the Bureau received another letter from Petitioner. In this letter Petitioner asked for copies of the specific statutes and documents that make him subject or liable for an income tax, and the documents that show he waived his rights and became obligated and under the purview of a taxing statute. The Bureau responded to Petitioner's requests by citing Idaho Code sections and referring him to the explanation pages of the Notice of Deficiency Determination. The Bureau also sent Petitioner a letter asking him if he wanted to continue his protest or withdraw his protest. Petitioner responded that he wanted to continue his protest.

Therefore, the Bureau referred the matter to the Tax Commission's Appeals Unit (Appeals) to begin the appeals process.

Appeals reviewed the matter and sent Petitioner a letter explaining the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner responded by reiterating that he was not domiciled in Idaho in 2015, 2018, and 2019, and that he did not owe Idaho tax in 2016 and 2017. Petitioner stated he is not a citizen of Idaho, and the Idaho Tax Commission has no authority over him. Petitioner stated he has no requirement to prove anything to the Idaho Tax Commission. Petitioner stated he would indulge the Tax Commission in a telephone hearing, but that he was leaving on a work assignment and would not be available until August 2022. Petitioner stated he would contact Appeals when he returned in August with dates that he was available. Petitioner also stated that just because he agrees to a hearing does not mean that he will abide by the judgement of the hearing officer. Petitioner does not believe there can be any impartiality when the accuser is the one passing judgment.

Appeals put the matter on hold until August 2022 to give Petitioner his right to a hearing. A few months after August, Petitioner had not contacted Appeals or provided dates for his hearing. Appeals sent Petitioner a letter asking him for dates and times for a telephone hearing if he still wanted one. Petitioner's representative (Representative) contacted Appeals to discuss Petitioner's case. Representative had very little information about the case, so Appeals sent her a copy of the Notice of Deficiency Determination to review for a later discussion and asked her to confirm if Petitioner still wanted a hearing.

A couple of months later with no further contact from Petitioner or Representative, Appeals e-mailed Representative asking for an update on how Petitioner wanted to proceed with his appeal. Representative responded that she had been in an accident and was trying to catch up on things.

Representative stated she would contact Petitioner and provide an update. A few days later, Representative e-mailed Appeals stating Petitioner recently suffered a stroke. Representative stated she would provide an update as soon as she was able to.

Putting the case aside again for several months, Appeals reached out again to Representative for an update on Petitioner's condition and where he stood with his appeal. Representative responded that Petitioner was recovering from the stroke for the last several months and has been unable to respond to her requests. Representative stated she would be reaching out to him again and would provide an update. Representative did not provide an update, so after another couple of months Appeals e-mailed Representative asking her what she knew about Petitioner's condition. Appeals told Representative the Tax Commission is considering deciding the case based on the information available. Representative responded with, "At this time, I can inform you that [Petitioner] initially moved to ID in 2015 but had to travel around to different states for employment thereafter and did not change his driver's license because it was too expensive. [Petitioner] has been recovering from a stroke and has been unable to provide the requested documentation as of yet."

After reviewing the case and with no further correspondence from Representative or Petitioner, the Tax Commission decided to issue its decision based on the information currently available.

LAW AND ANALYSIS

Idaho Code section 63-3002 states the legislative intent of the Idaho income tax act; to impose a tax on residents of this state measured on their income from all sources wherever derived, and upon nonresidents on the income earned which is the result of activity within or derived from sources within this state.

Idaho Code section 63-3013 defines a resident as an individual that is domiciled in Idaho, or

an individual who maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state.

Idaho Code section 63-3013A defines a part-year resident of Idaho as an individual who has changed his domicile from Idaho or to Idaho during the taxable year, or who has resided in Idaho for more than one day during the taxable year.

Idaho Code section 63-3030 provides the income thresholds for filing Idaho individual income tax returns. The information gathered by the Bureau clearly shows Petitioner received Idaho source income during the years 2015 and 2016, and depending on his resident status the income received exceeded the threshold amount for filing Idaho income tax returns.

Petitioner stated he was not domiciled in Idaho in 2015, yet his representative stated he initially moved to Idaho in 2015 but worked in other states. The Bureau also found information from the Idaho Department of Labor that Petitioner received wages in Idaho in the third and fourth quarters of 2015. Therefore, based on this information it appears Petitioner was a part-year resident of Idaho in 2015.

Petitioner's statements regarding 2016 and 2017 lead the Tax Commission to believe Petitioner resided in Idaho during those years. Petitioner also obtained and maintained an Idaho driver's license in those years. Petitioner stated his compensation for his labor in 2016 and 2017 was not income and not taxable by Idaho. He followed up that statement by saying that he was domiciled in Montana in June 2018 and that he was no longer a citizen of Idaho after June 2018. This last statement giving the implication that Petitioner was a citizen (resident) of Idaho in 2016 and 2017. As a resident of Idaho, Petitioner was required to file Idaho income tax returns and report his income from all sources.

As for 2018 and 2019, Petitioner's statement that he was no longer a citizen of Idaho after

June 2018 and that his domicile was Montana in June 2018 and then Alaska in December 2018 would suggest Petitioner left Idaho in 2018. However, Petitioner's W-2 Wage and Tax Statements for those years list Petitioner's mailing address in Idaho. In fact, from 2015 through 2019, only one of Petitioner's W-2s had an address other than Idaho. Furthermore, one of Petitioner's W-2s for 2019 reported Idaho withholding indicating Petitioner's requirement to report that income to Idaho.

Since an acquired domicile persists until another is legally acquired (*In re Cooke's Estate*, 96 Idaho 48, 524 P.2d 176 (1973)) and Petitioner held himself out to be an Idaho resident by virtue of having an Idaho driver's license and an Idaho mailing address, the Tax Commission finds Petitioner's domicile remained with Idaho for 2018 and 2019. Consequently, Petitioner was required to file Idaho income tax returns for 2018 and 2019.

Petitioner argued his compensation was not income and therefore not taxable by Idaho. Arguments similar to Petitioner's 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). The Tax Commission has also considered these arguments on numerous occasions and deemed them all meritless. Petitioner has not shown that he did not receive the income, nor has he cited any authority stating that the income he received was not subject to the Idaho income tax. The burden is on the taxpayer to show that the tax deficiency is erroneous. *Albertson's Inc., v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Absent competent evidence to the contrary, the Notice of Deficiency Determination must be upheld on review.

CONCLUSION

Petitioner moved back to Idaho in 2015. Petitioner admittedly received compensation for work in 2015 through 2019. Compensation for services is included in the definition of gross income. See Internal Revenue Code section 61. Petitioner has not shown he abandoned Idaho after returning to Idaho in 2015. Therefore, the Tax Commission finds Petitioner was required to file Idaho individual income tax returns for the tax years 2015 through 2019. The Tax Commission reviewed the returns the Bureau prepared and agrees with the Bureau's determination of Petitioner's resident status of a part-year resident in 2015 and a full year resident in 2016 through 2019. The Tax Commission also found the Bureau's determination of Petitioner's Idaho taxable income reasonable based on the information available. Accordingly, the Tax Commission upholds the Notice of Deficiency Determination.

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

THEREFORE, the Tax Commission AFFIRMS the Notice of Deficiency Determination dated July 22, 2021, directed to

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	\$1,128	\$282	\$325	\$1,735
2016	2,566	642	645	3,853
2017	4,542	1,136	992	6,670
2018	6,433	1,608	1,130	9,171
2019	3,255	814	396	4,465
			TOTAL DUE	<hr/> \$25,894

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

DATED this _____ day of _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
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.
