



OGDEN, UT 84201-0040

Rx 6/1/04  
CORT MAIL

DAVID P FONTAINE



EXM00

SBW

Letter Number: 3219(SC/CG)  
Letter Date: MAY 28, 2004

Taxpayer Identification Number:



Tax Form: 1040

Tax Year Ended and Deficiency

DECEMBER 31, 2001 \$479,515.03

Contact Person:

MR. PARIZEK 29-61699

Contact Telephone Number:

(866) 899-9083  
(TOLL FREE NUMBER)

Hours to Call:

7:00 AM TO 7:00 PM MON-FRI

Last Date to Petition Tax Court:

AUGUST 26, 2004

Penalties/Additions to Tax

IRC Section 6651(a)(1)	\$165,432.69
IRC Section 6654(a)	\$18,975.85

Dear Taxpayer:

We have determined that there is a deficiency (increase) in your income tax as shown above. This letter is your NOTICE OF DEFICIENCY, as required by law. The enclosed statement shows how we figured the deficiency.

If you want to contest this determination in court before making any payment, you have until the **Last Date to Petition Tax Court** (90 days from the date of this letter or 150 days if the letter is addressed to you outside the United States) to file a petition with the United States Tax Court for a redetermination of the amount of your tax. You can get a petition form and the rules for filing a petition from the Tax Court. You should file the petition with the **United States Tax Court, 400 Second Street NW, Washington D.C. 20217**. Attach a copy of this letter to the petition.

The time in which you must file a petition with the court (90 days or 150 days as the case may be) is fixed by law and the Court cannot consider your case if the petition is filed late. As required by law, separate notices are sent to spouses. If this letter is addressed to both a husband and wife, and both want to petition the Tax Court, both must sign the petition or each must file a separate, signed petition.

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. You can also get information about this procedure, as well as a petition form you can use, by writing to the Clerk of the United States Tax Court at 400 Second Street, NW, Washington, D.C. 20217. You should write promptly if you intend to file a petition with the Tax Court.

If you decide *not* to file a petition with the Tax Court, please sign and return the enclosed waiver form to us. This will permit us to assess the deficiency quickly and will limit the accumulation of interest. We've enclosed an envelope you can use. If you decide not to sign and return the waiver and you do not petition the Tax Court, the law requires us to assess and bill you for the deficiency after 90 days from the date of this letter (150 days if this letter is addressed to you outside the United States).

If you have questions about this letter, you may call the Contact Person whose name and telephone number are shown in the heading of this letter. If this number is outside your local calling area, there will be a long distance charge to you. If you prefer, you can call the Internal Revenue Service (IRS) telephone number in your local directory. An IRS employee there may be able to help you, but the office at the address shown on this letter is most familiar with your case.

When you send information we requested or if you write to us about this letter, please provide a telephone number and the best time to call you if we need more information. Please attach this letter to your correspondence to help us identify your case. Keep the copy for your records.

The person whose name and telephone number are shown in the heading of this letter can access your tax information and help get you answers. You also have the right to contact the Taxpayer Advocate. You can call 1-877-777-4778 and ask for Taxpayer Advocate Assistance. Or you can contact the Taxpayer Advocate for the IRS Office that issued this Notice of Deficiency by calling (801) 620-7168 or writing to:

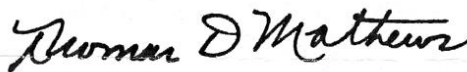
OGDEN SERVICE CENTER  
TAXPAYER ADVOCATE  
P.O. BOX 9941, STOP 1005  
OGDEN, UT 84409

Taxpayer Advocate assistance is not a substitute for established IRS procedures such as the formal appeals process. The Taxpayer Advocate is not able to reverse legally correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

Thank you for your cooperation.

Sincerely yours,

Commissioner  
By



Enclosures:  
Copy of this letter  
Waiver  
Envelope

THOMAS D. MATHEWS  
COMPLIANCE CENTER  
OGDEN Service Center

FORM 5564 (Rev. June 1992)

Department of the Treasury -- Internal Revenue Service  
**NOTICE OF DEFICIENCY - WAIVER**Symbols  
OGDEN  
STOP 4388

Name and Address of Taxpayer(s)

MAY 28, 2004

DAVID P FONTAINE

Kind of Tax

☐ Copy to Authorized Representative

INDIVIDUAL INCOME

Tax Year Ended

**DEFICIENCY**

DECEMBER 31, 2001

Increase in Tax \$479,515.03

Penalties

IRC Section 6651(a)(1)

\$165,432.69

IRC Section 6654(a)

\$18,975.85

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest. Also, I waive the requirement under section 6532 (a) (1) of the Internal Revenue Code that a notice of claim disallowance be sent to me by certified mail for any overpayment shown on the attached report.

I understand that the filing of this waiver is irrevocable and it will begin the 2-year period for filing suit for refund of the claims disallowed as if the notice of disallowance had been sent by certified or registered mail.

Signature		Date
		Date
	By	Title
		Date

**Note:** If you consent to the assessment of the deficiencies shown in this waiver, please sign and return this form to limit the interest charge and expedite our bill to you. Please do not sign and return any prior notices you may have received. Your consent signature is required on this waiver, even if fully paid.

Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for such action.

If you later file a claim and the Service disallows it, you may file suit for refund in a District Court or in the United States Claims Court, but you may not file a petition with the United States Tax Court.

**Who Must Sign:** If you filed jointly, both you and your spouse must sign. Your attorney or agent may sign this waiver provided that action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice Concerning Fiduciary Relationship, should, unless previously filed, accompany this form.

**If you agree, please sign and return this form; keep one copy for your records.**

FORM 5564 (Rev. 6-92)

Cat. No. 61258E MAE Form <b>4549</b>		Department of the Treasury - Internal Revenue Service <b>Income Tax Examination Changes</b>		Page 1 of 2
Name and Address of Taxpayer DAVID P FONTAINE <div style="border: 1px solid black; height: 20px; width: 100px;"></div>		SS or EI Number: <div style="border: 1px solid black; width: 100px; height: 15px;"></div>		Return Form No: 1040
		Person with whom examination changes were discussed.		Name and Title:
<b>1. Adjustments to Income</b>		<b>Period End 12/31/2001</b>	<b>Period End</b>	
a. Standard Deduction		(4,550.00)		
b. Dividends		17.00		
c. Taxable Distribution		28,191.00		
d. Stock Sales		1,254,055.00		
e.				
f.				
g.				
h.				
i.				
j.				
k.				
l.				
m.				
n.				
o.				
<b>2. Total Adjustments</b>		1,277,713.00		
<b>3. Taxable Income Per Return or as Previously Adjusted</b>		0.00		
<b>4. Corrected Taxable Income</b>		1,277,713.00		
Tax Method		Tax Rate Schedules		
Filing Status		Single		
<b>5. Tax</b>		476,695.93		
<b>6. Additional Taxes / Alternative Minimum Tax</b>				
<b>7. Corrected Tax Liability</b>		476,695.93		
<b>8. Less Credits</b>				
a.				
b.				
c.				
<b>9. Balance (Line 7 less total of lines 8a through 8d)</b>		476,695.93		
<b>10. Plus</b>				
Other				
Taxes				
a. IRA Tax		2,819.10		
b.				
c.				
<b>11. Total Corrected Tax Liability (line 9 plus line 10a - 10d)</b>		479,515.03		
<b>12. Total Tax Shown on Return or as Previously Adjusted</b>		0.00		
<b>13. Adjustments to:</b>				
a. Special Fuels Credit				
b.				
c.				
<b>14. Deficiency-Increase in Tax or (Overassessment Decrease in Tax) (Line 11 less 12 adjusted by 13)</b>		479,515.03		
<b>15. Adjustments to Prepayment Credits</b>		0.00		
<b>16. Balance Due or (Overpayment) (Line 14 adjusted by Line 15) ( Excluding interest and penalties)</b>		479,515.03		

The Internal Revenue Service has agreements with State tax agencies under which information about Federal tax, including increases or decreases, is exchanged with the States. If this change affects the amount of your State income tax, you should file the State form.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income and do not pay the required tax. The IRS may order backup withholding at 31 percent after four notices have been issued to you over a 120-day period and the tax has been assessed and remains unpaid.

Form CG-4549



Form <b>4549</b>	Department of the Treasury - Internal Revenue Service <b>Income Tax Examination Changes</b>		Page 2 of 2
Name and Address of Taxpayer DAVID P FONTAINE		SS or EI Number: <div style="border: 1px solid black; width: 80px; height: 20px;"></div>	Return Form No: 1040
<b>17. Penalties</b>		<b>Period End 12/31/2001</b>	<b>Period End</b>
a. Delq-IRC 6651(a) (2)		57,541.80	
b. Delq-IRC 6651(a) (1)		107,890.88	
c. Estimated Tax – IRC 6654		18,975.85	
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
<b>18. Total Penalties</b>		184,408.53	
Underpayment attributable to negligence: (1981-1987) A tax addition of 50 percent of the interest due on underpayment will accrue until paid or assessed.			
Underpayment attributable to fraud: (1981-1987) A tax addition of 50 percent of the interest due on underpayment will accrue until paid or assessed.			
Underpayment attributable Tax Motivated Transactions TMT interest will accrue and be assessed at 120% of underpayment rate in accordance with IRC 6621(c).			
<b>19. Summary of Taxes, Penalties and Interest:</b>			
a. Balance due or Overpayment Taxes – Line 16, Page 1		479,515.03	
b. Penalties (Line 18, Page 2)-computed to April 9, 2004		184,408.53	
c. Interest (IRC§ 6601)-computed to May 9, 2004		66,987.25	
d. TMT Interest – computed April 9, 2004 on TMT underpayment			
e. Amount due or refund (sum of lines a, b, c and d)		730,910.82	
<b>Other Information:</b>			
Examiner's Signature: Mr. Parizek		Employee ID: 29-61699	Date: April 9, 2004
Office: Ogden, UT			
Consent to Assessment and Collection – I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager or Director of Field Operations.			
PLEASE NOTE: If a joint return was filed, BOTH taxpayers must sign	Signature of Taxpayer	Date	Signature of Taxpayer
By:	Title		Date

Form CG-4549

Name of Taxpayer: DAVID P FONTAINE  
Identification Number:

2001

TAX YEAR INTEREST COMPUTATION

Interest computed to	May 9, 2004
Total Tax Deficiency	479,515.03
Plus Penalties*	
-Overvaluation	\$ .00
-Substantial Understatement	\$ .00
-Failure to File	107,890.88
-Negligence	\$ .00
-Civil Fraud	\$ .00
-Accuracy Penalties	\$ .00
Total Penalties	184,408.53
Tax Deficiency and Penalties Subject to Interest	\$ 587,405.92

Type	Effective Dates	Days	Rate	Interest
COMPOUND	04/01/2002--12/31/2002	275	6%	27,161.02
COMPOUND	01/01/2003--03/31/2003	90	5%	7,623.23
COMPOUND	04/01/2003--09/30/2003	183	5%	15,793.42
COMPOUND	10/01/2003--03/31/2004	183	4%	12,923.07
COMPOUND	04/01/2004--05/09/2004	39	5%	3,486.51

Total Interest	66,987.25
Total Underpayment	479,515.03
Total Penalties	184,408.53
Total Amount Due	730,910.82

Additional interest will be charged at the current rate compounded daily. Interest is charged from the original due date of the return to a date 30 days after an agreement to the additional tax is signed, or to the date of payment, if earlier. Negligence and fraud penalties, if applicable, will also continue to be charged. Generally, if notice and demand is made for payment of any amount, and that amount is paid within 21 days after the date of the notice and demand, interest on the amount paid will not be charged after the date of the notice and demand. Since additional tax is due, you may want to pay it now and limit the interest and penalty charges.

\* Interest on penalties became effective 7/19/1984 (1/1/1989 for negligence and fraud) and is computed from the due date of the return unless a valid extension was filed.

Name of Taxpayer: DAVID P FONTAINE

Identification Number:

April 9, 2004

2001

**SCHEDULE SE - COMPUTATION OF SELF-EMPLOYMENT TAX**

Primary

DAVID P FONTAINE

010-44-4741

1. Self-employment income	0.00
2. Multiply line 1 by 92.35%	0.00
3. Farm Optional Method Income	
4. Non-Farm Optional Method Income	
5. Earnings subject to self-employment tax (sum of 2, 3, 4)	0.00
6. Maximum earnings subject to social security	80,400.00
7. Social Security wages and tips from W-2	0.00
8. Unreported tips from Form 4137	
9. Sum of lines 7 and 8	0.00
10. Line 6 less line 9	80,400.00
11. Multiply the smaller of line 5 or 10 by 12.40%	0.00
12. Multiply line 5 by 2.90%	0.00
13. Self-Employment Tax (sum of lines 11 and 12)	0.00

Secondary

1. Self-employment income
2. Multiply line 1 by
3. Farm Optional Method Income
4. Non-Farm Optional Method Income
5. Earnings subject to self-employment tax (sum of 2, 3, 4)
6. Maximum earnings subject to social security
7. Social Security wages and tips from W-2
8. Unreported tips from Form 4137
9. Sum of lines 7 and 8
10. Line 6 less line 9
11. Multiply the smaller of line 5 or 10 by
12. Multiply line 5 by
13. Self-Employment Tax (sum of lines 11 and 12)

Form <b>886-A</b> (Rev. January 1994) 886-A	<b>EXPLANATION OF ITEMS</b>	
Name of Taxpayer <b>DAVID P FONTAINE</b>	Taxpayer Identification Number <div style="border: 1px solid black; width: 100px; height: 1.2em; margin: 0 auto;"></div>	Year/Period Ended <b>2001</b>

We have prepared this report because we have no record of receiving your Form 1040, U.S. Individual Income Tax Return, for the tax year shown. We have computed your tax, penalties, and interest based on information available to us. This computation may not give you full credit for exemptions, deductions, or credits. **Your best course of action is to file your own tax return now to claim your credits and deductions as allowed by law.**

If you need a list of the payers and amounts of the income reported to the Internal Revenue, you may request this information in writing.

**SE AGI Adjustment**

Tax Period	Per Return	Per Exam	Adjustment
2001	\$0.00	0.00	0.00

Your self-employment tax has changed as a result of adjustments made to your net income from self-employment as shown in this report. The self-employment tax deduction has been adjusted to one-half of the recomputed amount.

**In order to expedite the processing of the tax return for this year, please use the enclosed return envelope.**



Name of Taxpayer: DAVID P FONTAINE  
Identification Number:

April 9, 2004

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**2001      EXPLANATION OF THE ESTIMATED TAX PENALTY**

Since you did not pay sufficient estimated tax, addition to the tax is charged as shown below, in accordance with Section 6654(a) of the Internal Revenue Code.

1. Total corrected tax liability, Form 4549, line 11 (Tax Per Return, if a return was filed)	479,515.03
2. Withholding taxes + payments made on or before 4/15/1999	0.00
3. Line 1 less line 2 (if less than \$500, estimated penalty does not apply)	479,515.03
4. 90% of line 1	431,563.53
5. Prior year tax liability (110% of tax if AGI was more than \$150,000. or if MFS more than \$75,000.)	
6. The smaller of line 4 or 5 (as adjusted)	431,563.53
7. Total underpayment for year	431,563.53
8. Overpayment	
9. Multiply line 7 by 0.04397	18,975.85
11. Previously Assessed Penalty	
12. Estimated Tax Penalty	18,975.85

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**2001      PERSONAL EXEMPTION WORKSHEET**

1. Multiply \$ 2,900.00 by the total number of exemptions claimed on Form 1040, line 6e	2,900.00
2. Adjusted Gross Income	1,282,263.00
3. Limitation based on Filing Status	132,950.00
4. Subtract line 3 from line 2	1,149,313.00
5. Divide line 4 by \$2,500 (\$1,250 if married filing separate)	460
6. Multiply line 5 by 2% and enter the result as a decimal	9.2
7. Multiply line 1 by line 6	26,680.00
8. Deduction for exemptions (Subtract line 7 from line 1)	0.00

Note: If Line 4 is more than \$122,500. or (\$61,250. if married filing separately), a deduction for exemptions cannot be taken.

Name of Taxpayer: DAVID P FONTAINE  
Identification Number:

April 9, 2004

**2001 EXPLANATION OF THE DELINQUENCY PENALTY**

Since your income tax return was not filed within the time limit prescribed by law and/or the tax was not paid, and you have not shown that such failure was due to reasonable cause, an addition to the tax is charged as shown below, in accordance with Section 6651(a)(1) and/or Section 6651(a)(2) of the Internal Revenue Code.

**DELINQUENCY PENALTY**

1. Delinquency penalty abated	0.00
2. Date return due	April 15, 2002
3. Date return filed	04/07/2004
4. Failure to File penalty rate	0.225%
5. Failure to Pay penalty rate	0.120%
6. Total corrected tax, Form 4549, line 11	479,515.03
7. Payments on or prior to due date of return	0.00
8. Line 6 less line 7	479,515.03
9. Failure to File Penalty - line 8 multiplied by line 4	107,890.88
10. Minimum penalty if over 60 days delinquent	100.00
11. Failure to File Penalty - Greater of line 9 or line 10	107,890.88
12. Previously assessed Failure to File Penalty	0.00
13. Net Failure to File Penalty - line 11 less line 12	107,890.88
14. Failure to Pay Penalty - line 8 multiplied by line 5	57,541.80
15. Previously assessed Failure to Pay Penalty	0.00
16. Net Failure to Pay Penalty - line 14 less line 15 *	57,541.80
17. Total Delinquency Penalty - Sum of line 13 and 16	165,432.69

\* If an amount appears as the Failure to Pay Penalty, the amount only reflects the addition to tax under Internal Revenue Code section 6651(a)(2) through the date of this notice. The addition to tax will continue to accrue from the due date of the return at a rate of 0.5 percent each month, or fraction thereof, of nonpayment, not exceeding 25 percent.