

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 12814
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On June 2, 1998, the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (petitioners), proposing additional income tax and interest for the taxable years 1995, 1996 and 1997, in the total amount of \$211. The petitioners filed a timely protest and petition for redetermination. The Tax Commission, having reviewed the file, hereby issues its decision.

The only issue to be resolved is whether the petitioners are entitled to a deduction for withdrawals from their individual retirement accounts (hereafter "IRA"). The funds contributed to the IRA were earned outside Idaho prior to the time the petitioners became Idaho residents. The petitioners were Idaho residents for the taxable years 1995, 1996 and 1997. On the petitioners' original Idaho income tax returns, the petitioners claimed a deduction for an "IRA previously taxed in California" as follows:

Taxable Year 1995	\$1,305
Taxable Year 1996	\$1,409
Taxable Year 1997	\$1,529

The Tax Commission issued a Notice of Deficiency Determination on June 26, 1998, disallowing the petitioners' deduction for an "IRA previously taxed in California." The petitioners maintain that it is "inequitable that this double taxation is allowed to happen."

"Taxable income" is defined as "federal taxable income as determined under the Internal Revenue Code." I.C. § 63-3011B. The petitioners are not contesting the fact that the distribution

from their IRA's in 1995, 1996, and 1997 constitutes taxable income under the Internal Revenue Code.

"Idaho taxable income" is defined as "taxable income as modified pursuant to the Idaho adjustments specifically provided in this chapter." I.C. § 63-3011C. The petitioners have not identified any provision of the Idaho Income Tax Code that specifically provides that the distributions can be deducted or exempted from Idaho taxable income. Therefore, distributions from the petitioners' individual retirement account are includable in "Idaho taxable income" under the Idaho Income Tax Code.

On May 23, 2001, the Idaho Supreme Court issued its decision in *Idaho State Tax Com'n v. Stang*, 25 P. 3d 113 (ID. 2001). In *Stang*, the taxpayers, like the petitioners, were Idaho residents at the time they received a distribution from their individual retirement accounts. The taxpayers included the distributions in their federal taxable income. The taxpayers then claimed a deduction for the distributions in arriving at their Idaho taxable income since California had previously taxed the income by not allowing the taxpayers to claim a deduction on their prior year California income tax return. The Idaho Supreme Court ruled in *Stang* that

There is no ambiguity in the applicable provisions of either the Idaho Income Tax Code or the Internal Revenue Code. Distributions from an IRA are includable as taxable income in the year of the distribution, and there is no provision in either the Idaho or the federal income tax code permitting such distributions to be deducted from income in instances where the taxpayer had not been granted a deduction for the contributions to the IRA at the time they were made.

Furthermore, The Idaho Supreme Court in *Stang* stated that

Although they had paid income taxes to California on the sums that they contributed to their IRA's, Idaho law does not provide a deduction, exemption, or tax credit in that situation. Any such deduction, exemption, or tax credit must come from the legislature, not from the judiciary. . . . Therefore, the distribution was Idaho taxable income and the Stangs must pay Idaho income tax on that sum. (Emphasis added).

Just like the taxpayers in *Stang*, the petitioners are not entitled to a deduction for the distributions at-issue and the petitioners must pay Idaho income tax on those distributions.

WHEREFORE, the Notice of Deficiency Determination dated June 2, 1998, is hereby APPROVED AFFIRMED, and MADE FINAL.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$58	\$0	\$14	\$ 72
1996	63	0	11	74
1997	70	0	6	<u>76</u>
			TOTAL	\$222
			Payment Received	(222)
			TOTAL DUE	<u>\$ 0</u>

An explanation of the petitioners' rights to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2001, 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:

[REDACTED]

Receipt No. [Redacted]

[REDACTED]

ADMINISTRATIVE ASSISTANT 1