

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15085
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On July 18, 2000, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing additional individual income tax, penalty, and interest in the amount of \$334 for the year ending December 31, 1997.

The taxpayers filed a timely appeal and petition for redetermination. They did not request a conference. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision based thereon.

Idaho Code § 63-3002 provides:

Declaration of intent. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that **the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law**; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. All of the foregoing is subject to modifications in Idaho law including, without limitation, modifications applicable to unitary

groups of corporations, which include corporations incorporated outside the United States. (Emphasis added.)

The intent of the Idaho Legislature is to follow the federal determination subject only to modifications contained in Idaho law. [Redacted]. [Redacted] In their letter of protest the taxpayers said:

Until 1997, there had not been any question as to who would receive the child tax exemption because there was never any type of court order or custodial order in place that addressed this issue. In October 1997, there was a temporary order entered granting the other party the federal tax exemption while we retained the right to claim the state tax exemption. This was done due to the fact that the child resided with us for the majority of the year and the state in which the other party resides does not have state income tax and therefore would not benefit said party.

The Bureau responded by letter wherein the Bureau explained Idaho Code § 63-3002 to the taxpayers. [Redacted].

The taxpayers wrote back saying a temporary court order denied them the right to claim the child in their federal return but granted the taxpayers the right to claim the child in their Idaho return. They asked to have their file transferred to the Legal/Tax Policy Division for administrative review. The taxpayers did not respond to a letter from the Legal/Tax Policy Division that outlined their appeal rights.

Pursuant to Idaho Code, the Tax Commission has chosen to follow [Redacted] Idaho law. A civil court order cannot supersede federal or state law. [Redacted]. [Redacted].

Based upon the information in the file and the applicable law, the Tax Commission finds the Notice of Deficiency Determination is an accurate reflection of the additional income tax due for 1997.

Under Idaho Code § 63-3069, the taxpayers were required to immediately send written notice to the Idaho Tax Commission upon a final determination of a deficiency [Redacted]. The taxpayers

did not notify the Tax Commission of the [Redacted]. The Bureau properly imposed the penalty provided by Idaho law.

WHEREFORE, the Notice of Deficiency Determination dated July 18, 2000, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest for 1997:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$270	\$14	\$64	\$348

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

An explanation of the taxpayers' right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2001, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

ADMINISTRATIVE ASSISTANT 1