

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 15243
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On June 26, 2000, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 1992 through 1997 in the total amount of \$5,781.

On August 23, 2000, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Tax Commission's hearing rights letter and have not provided any further information. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that Mrs. [Redacted] received wages from her employer while working in Idaho. The Bureau sent the taxpayers a letter asking about their filing requirement with Idaho. The taxpayers responded saying they were residents of Nevada and that Mrs. [Redacted] employer reported her work in Idaho incorrectly. The taxpayers stated they would get a statement from Mrs. [Redacted] employer to verify that she did not work in Idaho.

The Bureau continued researching the taxpayers' case and found the taxpayers owned a house in [Redacted], Idaho and registered at least two vehicles in Idaho. In addition, Mr. [Redacted] purchased a resident fish and game license in June 1999 stating that he had been a resident of Idaho for 26 years. This information prompted the Bureau to send the taxpayers a

residency questionnaire. The taxpayers did not respond to the questionnaire or provide the statement from Mrs. [Redacted] employer.

Since the taxpayers did not provide the requested information, the Bureau [Redacted] made a determination that the taxpayers were required to file Idaho income tax returns. The Bureau prepared returns for the taxpayers as part-year residents of Idaho, living in the state for eight months each year. The Bureau sent the taxpayers a Notice of Deficiency Determination, which the taxpayers appealed.

The taxpayers stated in their protest letter that Mrs. [Redacted] was a Nevada resident who worked for attorneys in Oregon. The taxpayers stated most of the work was done in the taxpayers' office in Nevada. Therefore, the income is Nevada income not Idaho income. The taxpayers stated they were meeting with Mrs. [Redacted] employer to straighten this matter out.

Several months after receiving the taxpayers' protest letter, the Bureau had not received any additional information from the taxpayers. The Bureau tried to contact the taxpayers but had no success. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission provided the taxpayers with an opportunity to submit additional information; however, the taxpayers did not respond. Therefore, the Tax Commission decided the matter based upon the information available.

Mrs. [Redacted] employer reported wages for Mrs. [Redacted] to Idaho in each of the years. Apparently, the taxpayers contacted Mrs. [Redacted] employer, and they received a letter from her employer telling them why Mrs. [Redacted] income was reported as Idaho income. The taxpayers disagreed with Mrs. [Redacted] employer. The taxpayers stated they were going to meet with Mrs. [Redacted] employer to discuss their disagreement sometime after August 22, 2000.

Over a year has past since the Tax Commission was made aware of the planned meeting between the taxpayers and Mrs. [Redacted] employer. In that time, nothing has been provided to correct or further dispute the reported income to Idaho. Since the taxpayers have not provided anything to establish or support the statements made in dispute of the Notice of Deficiency Determination, they have not met their burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984).

The Tax Commission reviewed the returns the Bureau prepared and found them to be a close approximation of the taxpayers' Idaho income tax liability. The Tax Commission found, based upon the repeated statements of the taxpayers, that the taxpayers' correct residency status was that of nonresidents of Idaho. As nonresidents, the taxpayers were not entitled to the Idaho grocery credit (IDAPA 35.01.01.770.06, Income Tax Administrative Rules). The Bureau included the grocery credit in the returns it prepared for the taxpayers. Therefore, the Tax Commission adjusted the Bureau-prepared returns to show that no grocery credit is allowed.

The Tax Commission found the Bureau correctly determined the taxpayers' Idaho taxable income based on the information available. Therefore, with the adjustment previously mentioned, the Tax Commission upholds the Bureau's determination.

The Bureau added interest and penalty to the taxpayers' Idaho tax liability. The Tax Commission reviewed those additions and found them to be appropriate per Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated June 26, 2000, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1992	\$ 269	\$ 67	\$196	\$ 532
1993	241	60	150	451
1994	383	96	209	688
1995	1,040	260	478	1,778
1996	860	215	324	1,399
1997	1,070	267	310	<u>1,647</u>
			TOTAL DUE	<u>\$6,495</u>

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

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2001.

IDAHO STATE TAX COMMISSION

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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][REDACTED]

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ADMINISTRATIVE ASSISTANT 1