

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15477
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On February 2, 2001, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing additional income tax and interest for the taxable years 1997 and 1998 in the total amount of \$519.

On March 9, 2001, the taxpayers filed a timely appeal and petition for redetermination. However, the taxpayers did not respond to the Tax Commission's hearing rights letter, and did not provide any other information than what was presented in their protest letter. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayers are nonresidents of Idaho and filed nonresident Idaho income tax returns for 1997 and 1998. The taxpayers' only source of Idaho income during these years was from an Idaho partnership, [Redacted] located in [Redacted], Idaho. [Redacted] transacts all its business in Idaho and reported 100% of its income as Idaho income.

The Income Tax Audit Bureau (Bureau) reviewed the partnership's and the taxpayers' income tax returns and found that the taxpayers did not report their entire distributive share of the partnership's income. The Bureau adjusted the taxpayers' 1997 and 1998 returns and sent the taxpayers a Notice of Deficiency Determination.

The taxpayers protested stating that the interest, dividends, and capital gain distributions as shown on the schedules K-1 were all income from intangible property. The taxpayers referenced Income Tax Administrative Rule 266, which states that income from intangible

property is taxable to the state of the owner's domicile. Therefore, the income shown as interest, dividends, and capital gain distributions was reportable only to the taxpayers' state of domicile, Utah.

The Tax Commission reviewed the taxpayers' argument and agreed with the taxpayers' basic premise but does not agree that it is applicable in this situation. The Rule the taxpayers cited, Rule 266, is a Rule that applies to the determination of the taxable income of part-year residents and nonresidents. This Rule is used when determining the source of income from intangible property of individuals, not partnerships or S corporations.

Income Tax Administrative Rule 263 discusses the distributive share of S corporation and partnership income. It states that a partner's distributive share of business income, gains, losses, and other pass-through items is determined by multiplying each pass-through item by the Idaho apportionment factor of the business. The taxpayers' partnership filed its return showing all of its income was sourced to Idaho or had a 100% Idaho apportionment factor. Therefore, any pass-through item of income or loss is 100% reportable to Idaho.

In deciding whether the taxpayers' distributive share of interest, dividends, and capital gains distributions is taxable by Idaho, the Tax Commission finds the determining factor is how those items were sourced at the partnership level. Therefore, since the partnership allocated and apportioned 100% of its income to Idaho, all pass-through items (interest, dividends, and capital gains distributions) should be reported to Idaho on the taxpayers' returns.

WHEREFORE, the Notice of Deficiency Determination dated February 2, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$216	\$62	\$278
1998	222	47	<u>269</u>
		TOTAL DUE	<u>\$547</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

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]
 [REDACTED][REDACTED][REDACTED]

ADMINISTRATIVE ASSISTANT 1