

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15731
[REDACTED],)	
)	DECISION
Petitioner.)	
)	
)	

On July 25, 2001, the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (petitioner), reducing the amount of refund requested for the taxable year 2000. The petitioner filed a timely protest and petition for redetermination. The Tax Commission, having reviewed the file, hereby issues its decision.

FACTS

The petitioner earned \$9,226 of wages while working for an Idaho business located in [Redacted], Idaho. The petitioner filed an Idaho Part-Year Resident and Nonresident Income tax return (Form 43) reporting the wages earned in Idaho. The petitioner is seeking a refund of \$389 for the withholding tax that was withheld from his Idaho wages.

The petitioner indicated nonresident status on Idaho Form 43. Attached to the Idaho Form 43 was a Federal Form 1040NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents.

On April 10, 2001, the Revenue Operations Division (hereafter "Rev Op") of the Idaho State Tax Commission sent a correction notice to the petitioner. The correction notice put the petitioner on notice that the petitioner's (1) Idaho taxable income was \$6,426, (2) total Idaho tax was \$322, and (3) corrected refund was \$57.¹

¹ The \$6,426 of Idaho taxable income was derived at by subtracting a personal exemption amount of \$2,800 from the petitioner's \$9,226 of Idaho wages. The petitioner was not allowed the standard deduction. A nonresident alien,

On June 27, 2001, the Tax Commission received a letter from the petitioner arguing that the petitioner is entitled to a refund of the entire \$389.

On July 25, 2001, the Tax Commission issued to the petitioner a Notice of Deficiency Determination containing the following statement:

Your employer, following treaty law, has concluded your income is taxable and has withheld tax accordingly.

Your protest to this adjustment has been received and is being processed; however, this letter must be sent to complete our files.

The file was then forwarded to the Legal Division of the Idaho State Tax Commission for resolution.

On September 5, 2001, a letter was sent to the petitioner explaining the petitioner's hearing rights. As of the date of this decision, the Tax Commission has not received a response to the Tax Commission's letter dated September 5, 2001.

IDAHO LAW

Idaho Income Tax Administrative Rule 031 explains Idaho's taxation of aliens as follows:

031. ALIENS (Rule 031).

Sections 63-3013, 63-3013A, and 63-3014, Idaho Code.

01. Idaho Residency Status. For purposes of the Idaho Income Tax Act, an alien may be either a resident, part-year resident, or nonresident. The individual's residency status for federal income tax purposes does not determine the Idaho residency status of an alien taxpayer. An alien shall determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code.

02. Computation Of Idaho Taxable Income.

who does not elect to be treated as a resident for federal income tax purposes, is not entitled to the standard deduction. Idaho Income Tax Administrative Rule 031.b.

a. To compute the Idaho taxable income of an alien, the first step is to determine his taxable income. This will depend on whether the alien is a resident, nonresident, or dual status alien for federal income tax purposes.

b. Once the alien's taxable income has been computed, the amount of income subject to Idaho income tax depends on the alien's Idaho residency status. In general, if the alien qualifies as an Idaho resident, he is subject to Idaho income tax on all his taxable income regardless of its source. If the alien qualifies as a part-year resident or nonresident of Idaho, the amount of his taxable income subject to Idaho income tax is determined pursuant to Section 63-3026A, Idaho Code, and Rules 250 through 259 of these rules.

c. In the case of a nonresident alien who does not elect to be treated as a resident for federal income tax purposes, the standard deduction is zero (0). However, a nonresident alien who qualifies as a student or business apprentice eligible for the benefits of Article 21(2) of the United States - India Income Tax Treaty is entitled to the standard deduction amount as if he were a resident for federal income tax purposes provided he does not claim itemized deductions.

03. Filing Status. An alien shall use the same filing status for the Idaho return as used on the federal return.

CONCLUSION

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The petitioner has not provided any documentation to that the Notice of Deficiency Determination issued on July 25, 2001, is inaccurate or show that the wages the petitioner earned while working in Idaho are exempt from Idaho taxation.

WHEREFORE, the Notice of Deficiency Determination dated July 25, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's 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:

Receipt No. [REDACTED]

[Redacted]

ADMINISTRATIVE ASSISTANT 1