

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15623
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On March 30, 2001, the staff of the Revenue Operations Division of the Idaho State Tax Commission issued a Correction Notice to [Redacted] (taxpayer), proposing income tax for the taxable year 2000 in the total amount of \$414.

On May 21, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided no additional information. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer filed a 2000 nonresident Idaho income tax return showing the wages she earned and claiming a refund for all of her withholdings. The Revenue Operations Division (Division) received the taxpayer's return, reviewed it for correctness, made corrections to the return, and sent the taxpayer a Correction Notice. The taxpayer disagreed with the Division's corrections and filed a protest. The taxpayer stated that she was a foreign employee and was told by her employer that she would not have to pay tax on her earnings in the United States. She stated she has to pay a tax on all her income in her native country and it is not fair to have to pay tax on the same income twice.

The Tax Commission sent the taxpayer a letter setting forth two alternative methods for having the correction reconsidered. The taxpayer did not respond so the Tax Commission sent a follow-up letter to the taxpayer. The taxpayer still did not respond. Therefore, the Tax Commission decided this matter based upon the information presently available.

The taxpayer is a citizen of the country of Brazil. She came to the United States and Idaho to gain work experience. The taxpayer worked in Idaho from December 1999 through April 2000 and from July 2000 through October 2000. The taxpayer filed a 2000 nonresident Idaho income tax return showing her Idaho wages for the year and no tax liability.

The Division identified the taxpayer's return as a return with potential errors. The Division reviewed the taxpayer's return and determined the taxpayer incorrectly calculated her Idaho tax. The Division corrected the taxpayer's return and sent the taxpayer a reduced refund.

The taxpayer stated in her letter protesting the reduced refund that she was a foreign employee and that she was told by her employer that her U.S. income would not be taxed. Nevertheless, her employer withheld all the appropriate taxes from her wages.

IDAPA 35.01.01.031 Income Tax Administrative Rule (Rule 31) states that for Idaho income tax purposes, an alien shall determine her Idaho residency status using the test set forth in Idaho Code sections 63-3013, 63-3013A, and 63-3014. Under these tests, the taxpayer qualified as a part-year resident or nonresident.

Rule 31 further states that if the alien qualifies as a part-year resident or nonresident, the amount of her taxable income subject to Idaho income tax is determined pursuant to Idaho Code section 63-3026A. In addition, if a nonresident alien does not elect to be treated as a resident for federal income tax purposes, the standard deduction for that individual is zero.

The taxpayer filed her federal income tax return as a single nonresident alien. The taxpayer filed her Idaho return as a nonresident of Idaho. The Division calculated the taxpayer's Idaho tax as provided in Idaho Code section 63-3026A. The Division did not allow the taxpayer a standard deduction because she filed as a nonresident alien for federal purposes.

The Tax Commission reviewed Treaty law for any agreement between the United States and Brazil on the taxation of income of the respective parties citizens. The Tax Commission found no agreement. Therefore, the Tax Commission finds there is no basis in law for the taxpayer's statement that her income should not be taxed.

The taxpayer worked in Idaho and received wages from an Idaho employer. The income she received clearly qualifies as Idaho source income. The taxpayer's income was in excess of the amount required for nonresidents to file Idaho income tax returns. (Idaho Code section 63-3030(2).) Therefore, the Tax Commission finds that the taxpayer was required to file an Idaho income tax return and that the tax computation made by the Division was correct.

WHEREFORE, the Notice of Deficiency Determination dated June 13, 2001, reducing the taxpayer's refund for the taxable year 2000 is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2002, 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]
[REDACTED]

Receipt No: [REDACTED]

ADMINISTRATIVE ASSISTANT 1