

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

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| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 16360 |
| [Redacted] |) | |
| Petitioner. |) | DECISION |
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On February 2, 2002, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing additional income tax and interest for the taxable year 1999 in the total amount of \$1,121.

On February 11, 2002, 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 for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

During the matching process of federal information with Tax Commission information, the Income Tax Audit Bureau (Bureau) found that the taxpayer's 1999 Idaho taxable income could not be reconciled [Redacted] The Bureau sent the taxpayer a letter asking the taxpayer to explain the difference between the taxable income reported [Redacted]. The taxpayer responded to the Bureau's letter with information that showed he claimed a foreign earned income exclusion in the amount of the difference. [Redacted] The Bureau determined [Redacted] did not allow the foreign earned income exclusion on the [Redacted]. [Redacted], the Bureau adjusted the taxpayer's Idaho taxable income to agree with his federal taxable income.

The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested. The taxpayer stated he disagreed [Redacted] He stated he was particularly chagrined at the added interest when nothing had been confirmed in prior correspondence.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. Therefore, the Tax Commission decided the matter based upon the information contained in the file.

Idaho Code section 63-3002 states that the Idaho income tax act is to be identical to the Federal Internal Revenue Code relating to the measurement of taxable income. Idaho taxable income shall be the identical sum reported to the [Redacted], subject to modifications contained in the Idaho law. The information [Redacted] showed the taxpayer's [Redacted] adjusted gross income higher than the amount shown on the taxpayer's Idaho income tax return. The information also showed the taxpayer paid additional tax, penalty, and interest rather than receiving the refund shown [Redacted]. The taxpayer stated he disagreed [Redacted]. However, he has provided nothing [Redacted]. The taxpayer has failed to meet his burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984).

[Redacted] Idaho Code section 63-3002 requires that the two amounts be the same. The Bureau's adjustment made the taxpayer's Idaho taxable income agree [Redacted]. The Tax Commission found this adjustment appropriate under Idaho Code section 63-3002.

The Bureau also adjusted the taxpayer's Schedule A miscellaneous deductions and the credit he claimed for taxes paid to the state of [Redacted]. The adjustment to miscellaneous deductions was a result of the change to the taxpayer's taxable income. Therefore, the Tax Commission found the adjustment appropriate. The adjustment to the credit for tax paid to [Redacted] was to correct the amount allowable as determined from the [Redacted] return the taxpayer provided with his Idaho return. The taxpayer based the credit he claimed on the amount of withholdings as shown on his W-2 wage statement. However, Idaho Code section 63-3029

states that the credit shall be for the amount of tax imposed by the other state. The withholdings shown on the taxpayer's W-2 wage statement is not the tax imposed by the state of [Redacted]. The taxpayer's [Redacted] income tax return showed the tax due [Redacted]. The Bureau's adjustment corrected the credit to the tax shown on the [Redacted] return. The Tax Commission agreed with the Bureau's adjustment.

The Bureau also added interest to the taxpayer's tax in accordance with Idaho Code section 63-3045. This code section states that interest shall be added to any deficiency in tax. Furthermore, the Idaho Supreme Court stated in Union Pacific Railroad Company v. State Tax Commission, 105 Idaho 471, 670 P.2d 878 (1983):

The general rule is that absent statutory authorization, courts have no power to remit interest imposed by statute on a tax deficiency. American Airlines, Inc. v. City of St. Louis, 368 S.W.2d 161 (Mo. 1963); see generally 85 C.J.S. Taxation, § 1031(c) (1954). We agree with the State that I.C. § 63-3045(c) is clear and unequivocal when it states that 'interest ... shall be assessed' and 'shall be collected.' This section is not discretionary, but rather, it is mandatory. Following the language of this section we hold that this Court, as well as the district court, lacks any power to remit the interest that is mandated by the statute. The Tax Commission reviewed the addition of interest and found that it was

correctly computed and applied.

WHEREFORE, the Notice of Deficiency Determination dated February 1, 2002, is hereby APPROVED, AFFIRMED, and MADE FINAL.

The taxpayer paid the amount of the deficiency with his appeal; therefore, no ORDER for payment is necessary.

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]

Receipt No. [Redacted]
