

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16375
[Redacted])	
)	DECISION
Petitioners.)	
_____)	

[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated February 8, 2002, asserting additional liabilities for Idaho income tax and interest in the total amounts of \$974, \$579, and \$1,437 for 1998, 1999, and 2000, respectively.

The auditor made three adjustments to the petitioners' Idaho income tax returns. The first was to include interest income paid to them by an S corporation in which they owned an interest. This adjustment was made for both 1998 and 1999. The second was to deny a claimed Idaho capital gains deduction relating to gains recognized by the petitioners with regard to their sale of stock. The third adjustment was to assert an additional liability due to the recapture of Idaho investment tax credit. The second and third adjustments were made only on the 2000 return.

The auditor included a portion of the interest income paid to the petitioners by an S corporation in which they held an interest. The petitioners had not included any portion of this as being from an Idaho source. Idaho Code § 63-3026A provides that interest income received by a shareholder of an S corporation shall constitute income from sources within this state to the extent that the S corporation is transacting business within this state. The petitioners have not shown any error in this computation. Therefore, the Commission finds this adjustment to be appropriate.

The auditor disallowed a capital gain deduction in the amount of \$8,480 claimed by the petitioners with regard to their gain from the disposition of stock. The gain was not reported as Idaho source income. The petitioners have not provided either authority or rationale to support their claimed deduction. The adjustment is proper.

In 2000, the petitioners disposed of their interest in an S corporation, which had activity in Idaho. In 1999, the petitioners had claimed Idaho investment tax credit relating to assets purchased by the S corporation. The auditor asserted that the disposition of the stock of the S corporation triggered recapture of the credit. Idaho Code § 63-3029B(6) stated, in part:

Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of its useful life, shall be determined according to the applicable recapture provisions of the internal revenue code.

The petitioners have not provided authority to indicate either that the recapture provisions should not apply to their situation or that there is an error in the auditor's computations. Therefore, the Commission finds that the petitioners have failed to carry their burden of proof with regard to this issue.

WHEREFORE, the Notice of Deficiency Determination dated February 8, 2002, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that petitioners pay the following tax and interest (calculated to August 31, 2002):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$ 792	\$ 203	\$ 995
1999	500	92	592
2000	1,333	138	<u>1,471</u>
		TOTAL DUE	<u>\$3,058</u>

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

An explanation of the petitioners' right to appeal this decision is enclosed 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]ceipt No. 7000 0520 0022 1340 7605

[Redacted]