

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16941
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On February 8, 2002, the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (taxpayer), proposing additional income tax, penalty, and interest for the year 1999 in the total amount of \$302.

On February 26, 2002, a timely protest and petition for redetermination was received from the taxpayer. An informal hearing has not been requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

Idaho Code section 63-3002 states that the taxable income reported to [Redacted] shall be the identical sum reported to the state of Idaho, subject to modifications contained in the Idaho law. The Bureau found that the taxable income reported on the taxpayer's 1999 Idaho income tax return did not agree with the [Redacted] income reported for that year. The Bureau sent the taxpayer a letter asking him to explain why his Idaho taxable income was not the same as his [Redacted] income.

The taxpayer responded that he came to Idaho in July 1999 and remained through December 1999. He stated that he worked in Portland, Oregon prior to working in Idaho.

The Bureau reviewed the information and found the taxpayer filed an Idaho Form 40EZ resident income tax return for Idaho. The income the taxpayer reported was only the income earned in Idaho. The Bureau determined the taxpayer should have filed a part-year resident

return. The Bureau corrected the taxpayer's Idaho income tax return and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination stating he did not understand why his tax liability had been raised. He believed he filed per the instructions which never mentioned percentages. He also failed to see why he should be charged interest since he did not mean to defraud the Commission. He did not understand why he should have to pay additional tax to Idaho.

The Bureau sent the taxpayer a letter explaining its adjustments in more detail. Since the taxpayer did not respond to the Bureau's letter, the taxpayer's file was sent to the Commission's Legal/Tax Policy Division for further review.

The Commission gave the taxpayer 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 available.

Idaho Code section 63-3013A defines a part-year resident of Idaho. It states that a part-year resident is an individual who is not a resident and who has changed his domicile to or from Idaho during the taxable year; or who has resided in Idaho for more than one day during the taxable year. The taxpayer stated he came to Idaho in July 1999; therefore, he was a part-year resident of Idaho in 1999.

Idaho Code section 63-3026A provides for the computation of Idaho taxable income for part-year residents. It states that for part-year residents, Idaho taxable income is composed of income from Idaho sources for the time the individual was not a resident of Idaho and income from all sources for the time the individual was a resident of Idaho. This section further states that a part-year resident individual is allowed a deduction for the standard deduction or itemized

deductions and exemptions in the proportion that his Idaho taxable income bears to his Idaho taxable income as if he were a resident of Idaho.

A closer look shows what Idaho's taxing scheme is trying to accomplish. A part-year resident of Idaho is only taxed on income from Idaho sources prior to becoming a resident of Idaho and on income from all sources after becoming a resident. Idaho's taxing scheme matches the income reportable to Idaho with a portion of the standard or itemized deductions and exemptions allowed on the total income. Therefore, the Idaho part-year resident computation shows income that is taxable by Idaho because of residing in Idaho and income being from Idaho sources along with the total income earned. However, the Idaho tax is only computed on Idaho taxable income.

The Idaho Supreme Court in hearing Union Pacific Railroad Company v. State Tax Commission, 105 Idaho 471, 670 P.2d 878 (1983), addressed whether the taxpayer was required to pay interest, the Court said:

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. Therefore, as to the interest issue we reverse with directions for the trial court to award interest from 1942.

The Bureau computed the taxpayer's Idaho tax in accordance with Idaho Code section 63-3026A. Therefore, the Tax Commission upholds the Bureau's determination.

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 the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$261	\$0	\$60	\$321

Interest is computed through June 5, 2003

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

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

DATED this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2003, 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]
