

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 17275
Petitioners.) DECISION
_____)

On February 28, 2003, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing additional income tax and interest for the taxable year 2000 in the total amount of \$2,699.

On April 14, 2003, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather submitted a statement clarifying their position. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayers timely filed a part-year resident Idaho income tax return. The Income Tax Audit Bureau (Bureau) reviewed the taxpayers' return and determined it had some potential errors. Therefore, the Bureau scheduled the return for audit. The Bureau contacted the taxpayers and the taxpayers provided additional information for the items questioned by the Bureau. The Bureau reviewed the additional information and determined there were adjustments that needed to be made to the taxpayers' Idaho income tax return.

The Bureau adjusted the taxpayers' return and sent the taxpayers a Notice of Deficiency Determination. The taxpayers protested the Bureau's determination. Specifically, the taxpayers protested the inclusion of all the capital gain, as Idaho income, on the sale of their home in [Redacted]. The taxpayers stated they lived in Idaho for only

five months in 2000. They believe the capital gain should be treated the same as the other adjustments the Bureau made, proportioned to Idaho at 5/12s. The taxpayers did not protest the Bureau's adjustments for the Idaho capital gains deduction, the pension and annuities income, or the rental income.

Idaho Code section 63-3002 states the intent of the Idaho legislature regarding the Idaho income tax act. It states that the legislature intended to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents, which is the result of activity within or derived from sources within this state. The taxpayers moved to Idaho in March 2000. They remained in Idaho until August 2000. Idaho Code section 63-3013A states that a part-year resident of Idaho is an individual who has resided in Idaho for more than one day during the taxable year. Since the taxpayers resided in Idaho for approximately five months, they were considered part-year residents of Idaho in 2000. As part-year residents of Idaho, the taxpayers were required to report to Idaho their Idaho source income and all income they received while residing in Idaho. (Idaho Code section 63-3026A)

The taxpayers sold their home in [Redacted] on June 22, 2000. The sale occurred while the taxpayers were residents of Idaho. Therefore, according to Idaho Code section 63-3026A, any gain on the sale of the property was reportable to Idaho.

The taxpayers argued that the gain should be proportioned to Idaho in the same manner as their other income. However, the Idaho Code is clear that all income received while residing in Idaho is reportable to Idaho. The taxpayers' other income, pension and annuity income and rental income, were received evenly throughout the year. Therefore, only the pension and annuity income and rental income the taxpayers received while

residing in Idaho was reportable to Idaho. It then follows that, since the gain on the sale of the [Redacted] property was received while the taxpayers were residing in Idaho, the full gain should be reported to Idaho.

WHEREFORE, the Notice of Deficiency Determination dated February 28, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$2,357	\$ 0	\$ 412	\$2,769

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

An explanation of taxpayers' right to appeal this decision is enclosed.

DATED this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this ____ day of _____, 2003, served a copy of the within and foregoing decision by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]
