

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of )  
[REDACTED], ) DOCKET NO. 18107  
 )  
Petitioners. ) DECISION  
 )  
\_\_\_\_\_ )

On March 24, 2004, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 2000 and 2001 in the total amount of \$2,828.

On May 26, 2004, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Tax Commission's hearing rights letter and have provided only the information contained in their protest letter. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that showed the taxpayers received wages from an Idaho employer in 2000. The Bureau researched the Tax Commission's records and found the taxpayers did not file a 2000 Idaho individual income tax return. The Bureau sent the taxpayers a letter asking about their requirement to file. The taxpayers failed to respond. The Bureau obtained additional information [Redacted] and determined the taxpayers were required to file Idaho income tax returns for the taxable years 2000 and 2001. The Bureau prepared returns for the taxpayers and sent them a Notice of Deficiency Determination.

The taxpayers protested the Bureau's determination. They stated the determination was in error because they moved out of Idaho in July 2000. The taxpayers stated they were part-year

residents in 2000 and non-residents of Idaho in 2001. The taxpayers stated they would request copies of their federal returns from the IRS to determine the correct amount owed to Idaho.

The taxpayers did not provide any further information, so the Bureau referred the matter for administrative review. The Tax Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. The taxpayers did not respond. The Tax Commission sent the taxpayers a follow-up letter but still received no response from the taxpayers. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayers filed Idaho resident income tax returns as far back as 1995. The Department of Labor provided information that the taxpayers received wages from Idaho employers in the first three quarters of 2000. The Department of Labor had no record of earnings for the taxpayers in 2001. Information [Redacted] showed the taxpayers received income from Idaho sources and Texas sources in 2000. It also showed the taxpayers' income for 2001 was primarily from Texas sources. However, the taxpayers did receive rental income from an Idaho source in 2001.

The returns the Bureau prepared for the taxpayers treated the taxpayers as full-year residents for both 2000 and 2001. However, the taxpayers claimed they were part-year residents in 2000 and non-residents in 2001. The taxpayers stated they left Idaho in July 2000. The Department of Labor records show the taxpayers last received wages from Idaho employers in the third quarter of 2000. The information [Redacted] shows the taxpayers had a Texas address for part of the year in 2000 and most likely all of the year in 2001. The taxpayers filed both their 2000 and 2001 federal returns with Texas addresses. Since the information available tends to agree with the taxpayers, the Tax Commission finds the taxpayers were part-year residents in

2000 and non-residents of Idaho in 2001. As part-year residents in 2000, the taxpayers were required to report to Idaho their income from all sources while residents of Idaho and income from Idaho sources while non-residents of Idaho. As non-residents in 2001, the taxpayers were required to report income from Idaho sources to Idaho. (Idaho Code section 63-3002.)

The information available shows the taxpayers earned wages while residents in 2000. This income is reportable to Idaho. For 2001, the available information shows the taxpayers received rental income from Idaho property, Idaho source income. The rental income was in excess of the filing requirements for non-residents (Idaho Code section 63-3030), so the taxpayers were required to file a return for 2001. However, the taxpayers did not provide any documentation or other information showing they had expenses attributable to the rental income. "[A] taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms." New Colonial Ice Inc. v. Helvering, 292 U.S. 435, 54 S.Ct. 788 (1934). Consequently, the Tax Commission did not allow any rental expenses.

The Bureau added interest and penalty to the taxpayers' deficiency. The Tax Commission reviewed those additions and determined they were appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046. Interest and penalty were computed on the modified tax due as determined by this decision.

WHEREFORE, the Notice of Deficiency Determination dated March 24, 2004, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is 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	\$155	\$ 39	\$ 44	\$ 238
2001	200	50	41	<u>291</u>
			TOTAL DUE	<u>\$ 529</u>

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

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2005, 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]  
[REDACTED]

Receipt No.

[REDACTED]

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