

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [Redacted] Petitioner.) DOCKET NO. 18300
)
) DECISION
)
)
)
)
 _____)

On September 13, 2004, the staff of the Revenue Operations Division 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 2003 in the total amount of \$321.23.

On August 18, 2004, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing and has not provided anything further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer timely filed his 2003 Idaho individual income tax return. While being processed the taxpayer's return was selected for review of the claimed credit for taxes paid to another state. The Taxpayer Accounting section reviewed the return and determined the taxpayer was not eligible for the credit. The taxpayer's return was adjusted and a Notice of Deficiency Determination was sent to the taxpayer.

The taxpayer disagreed with Taxpayer Accounting's determination stating that as a nonresident of Idaho he was "allowed to take the tax paid to another state in Idaho since I am a full year resident of [Redacted] and I paid full tax in the state of [Redacted]." The taxpayer stated the correction was a mistake and that he does not owe any further tax to Idaho.

The matter was referred for administrative review, and the Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded by telephone to the Tax Commission's letter. In that conversation, the Tax Commission explained the adjustment Taxpayer Accounting made to the taxpayer's return. The taxpayer seemed to understand but was unwilling to withdraw his appeal. He also had nothing further to add to his protest. Therefore, the Tax Commission hereby issues its decision on the matter.

Idaho Code section 63-3029 states, in pertinent part,

Credit for income taxes paid another state or territory. -- (1) A resident individual shall be allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on the individual, an S corporation, partnership, limited liability company, or trust of which the individual is a shareholder, partner, member, or beneficiary (to the extent attributable to the individual as a result of the individual's share of the S corporation's, partnership's, limited liability company's or trust's taxable income in another state), for the taxable year by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.

...

(3) The credit provided under this section shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the adjusted gross income of the taxpayer derived from sources in the other state as modified by this chapter bears to the adjusted gross income of the taxpayer as modified by this chapter. This limitation applies to all individuals whether the tax paid to the other state is paid by the individual or by an S corporation, partnership, limited liability company, or trust. Further, the credit shall not exceed the tax paid to the other state.

(4) To substantiate the credit allowed under this section, the state tax commission may require a copy of any receipt showing payment of income taxes to the other state or a copy of any return or returns filed with such other state, or both.

...

(6) The credit shall not be allowed if such other state allows a credit against taxes imposed by such state for taxes paid or payable under this act.

...

(9) A part-year resident is entitled to a credit, determined in the manner prescribed by the state tax commission, for income taxes paid to another state in regard to income which is:

- (a) Earned while the taxpayer is domiciled in this state; and
- (b) Subject to tax in such other state.

The taxpayer stated he was a full year resident of [Redacted] in 2003. He stated he only worked in Idaho for a short time as a wildland firefighter. The taxpayer provided a copy of his 2003 resident [Redacted] return, which showed he claimed a credit for taxes paid to Idaho.

Idaho's credit for taxes paid to another state is for residents and part-year residents of Idaho that have income from sources in another state that is subject to tax in Idaho and the other state. (Idaho Code section 63-3029(1) and (9).) Idaho does not allow the credit if the other state gives a credit to the taxpayer. (Idaho Code section 63-3029(6).)

Idaho's credit for taxes paid to another state is intended to ease the burden of paying state income taxes on the same income to more than one state. However, in order to receive the credit, the income has to be subject to tax in both Idaho and the other state. In this case, the taxpayer earned income in both [Redacted] and Idaho. As an [Redacted] resident, the taxpayer was required to report his income from all sources; therefore, the income he earned in Idaho was taxable by both Idaho and [Redacted]. However, as an [Redacted] resident, the taxpayer would, and in fact did, receive a credit for taxes paid to another state from [Redacted].

As for the Idaho credit, first and foremost, nonresidents do not get the credit. Idaho Code section 63-3029 specifies that only residents and part-year residents can receive the credit. Secondly, if Idaho's credit were available to nonresidents, the credit would not be available to the taxpayer because he received a credit from [Redacted]. (Idaho Code section 63-3029(6).) Therefore, the taxpayer is not allowed the Idaho credit, and the Tax Commission must uphold the adjustment Taxpayer Accounting made to disallow the credit for taxes paid to another state.

WHEREFORE, the Notice of Deficiency Determination dated September 13, 2004, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$310	\$ 23	\$333

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

An explanation of the taxpayer's 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.
