

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 18830
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On March 16, 2005, the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer), asserting additional individual income tax and interest for tax years 2002 and 2003 in the total amount of \$893.

The taxpayer filed a timely appeal and petition for redetermination. He did not request a conference. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The taxpayer filed timely Idaho resident individual income tax returns and received refunds of \$279 for 2002 and \$501 for 2003. The Bureau reviewed the two returns and found the income shown in those returns did not match the income reported in the taxpayer's federal returns.

Idaho Code § 63-3002 provides:

Declaration of intent. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; . . . (Emphasis added.)

Because the intent of the Idaho Legislature is to follow the federal determination of income, the Bureau sent the taxpayer a questionnaire asking him for an explanation of the difference in the reported income.

The taxpayer's response was somewhat confusing. In answer to the request for the dates he lived in Idaho during 2002, the taxpayer wrote: "I think it was most of the year." The taxpayer checked boxes indicating he was a resident of Idaho the entire year, he was a part-year resident who moved in or out of Idaho during the year, and he received income that he did not list in his Idaho return.

The Bureau sent the taxpayer a second letter of inquiry regarding both 2002 and 2003. The Bureau asked him to provide the physical address of his Idaho residence and the specific time span he lived in Idaho.

The taxpayer returned the completed questionnaire showing he moved to Idaho in August 2002 and moved out of the state in May 2003. He said: "I filed my taxes and got a return from Id. I don't see the problem. You have all the info. I sent." He added that he lived in Idaho only a short time before he returned to [Redacted] where he had lived for 30 years.

The Bureau wrote back to the taxpayer for more details regarding his employment. Each of the taxpayer's employers as shown in federal records was listed in the letter. The taxpayer was asked to complete the dates of his employment. (The federal information was provided in accordance with Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.)

Based on the taxpayer's responses and available records, the Bureau sent the taxpayer a NODD addressing tax years 2002 and 2003. The taxpayer appealed. Subsequently, one of the taxpayer's former employers sent the Bureau a letter stating the taxpayer did not work in Idaho for the company in 2002 or 2003.

The Bureau corrected its determination of income to not include the income from that particular employer and sent the taxpayer an amended NODD. However, the taxpayer did not withdraw his appeal, and his file was transferred to the Legal/Tax Policy Division for administrative

review.

Idaho Code § 63-3013 defines a resident for income purposes as an individual who:

- (a) Is domiciled in the state of Idaho for the entire taxable year;
- or
- (b) Maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state. Presence within the state for any part of a calendar day shall constitute a day spent in the state unless the individual can show that his presence in the state for that day was for a temporary or transitory purpose.

Available information and the taxpayer's own statements make it clear; the taxpayer was not domiciled in Idaho for the entire taxable year of either 2002 or 2003. Furthermore, the taxpayer did not maintain an abode in this state for the entire year of either 2002 or 2003.

Idaho Code § 63-3013A describes a "part-year resident" to mean an individual who is not a resident and who has either changed his domicile from or to Idaho during the taxable year or who has resided in Idaho for more than one day during the taxable year. That code provision goes on to provide that:

An individual shall be deemed to reside within Idaho for any calendar day in which that individual has a place of abode in this state and is present in this state for more than a temporary or transitory purpose. Presence for any fraction of a calendar day shall be counted as a whole day.

The taxpayer indicated he lived and worked in Idaho from October 2002 to May 2003. Idaho Department of Motor Vehicle records show the taxpayer obtained an Idaho driver's license on February 24, 2003. The taxpayer was not in Idaho for a temporary or transitory purpose. For the two years at issue, the taxpayer meets the definition of a part-year Idaho resident for income tax purposes.

During the time the taxpayer lived in Idaho, he received unemployment compensation from

the state of [Redacted] as well as income from wages. In the returns the taxpayer filed for 2002 and 2003, the taxpayer included only wages he received while working in Idaho. He did not include the unemployment compensation he received. Although he reported only the income he earned while living in Idaho, he computed his Idaho income tax as a resident rather than a part-year resident. In those Idaho resident returns, he completely ignored his unemployment compensation and the income he earned prior to moving to Idaho in 2002 and after he left Idaho in 2003.

Idaho Code § 63-26A(2) states that for part-year resident individuals, trusts or estates the term "Idaho taxable income" includes the total of: (a) Idaho taxable income as computed for a resident for the portion of the tax period during which a taxpayer is domiciled in or is residing in Idaho, plus (b) those components of Idaho taxable income which are derived from or related to sources within Idaho for that portion of the tax period during which a taxpayer is not domiciled in and is not residing in Idaho.

That code provision goes on to provide that income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from any business, trade, profession, or occupation conducted or carried on in this state.

Idaho Income Tax Administrative Rule 250.01 states that all income earned or received from sources within Idaho is subject to Idaho income taxation. Administrative Rule 250.02 specifies that all income earned or received by an individual who resides in or is domiciled in Idaho is subject to Idaho income taxation without regard to the source of the income.

As a part-year resident for 2002 and 2003, the taxpayer was subject to Idaho income tax on the income he earned or received while living in Idaho without regard to the source of the income. The unemployment compensation received by the taxpayer while he was a part-time resident was subject to Idaho tax just as the compensation he received from his employers while residing in Idaho

was subject to Idaho tax.

Idaho Income Tax Administrative Rule 255.02 directs the computation of exemptions and deductions allowable for part-year resident individuals to be determined by multiplying the total exemptions and deductions allowed by Section 151, Internal Revenue Code, and Section 63-3022(k), Idaho Code, by the proration percentage. The proration percentage is calculated by dividing Idaho adjusted income by the total adjusted income. The Bureau correctly computed the taxpayer's deductions and exemptions on a prorated basis.

The Bureau added interest pursuant to Idaho Code § 63-3045. The Tax Commission reviewed the addition and found it proper and in accordance with Idaho Code.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of his argument, the taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated March 16, 2005, is hereby MODIFIED and, as so modified, is 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>
2002	\$214	\$28	\$242
2003	221	18	<u>239</u>
		TOTAL DUE	<u>\$481</u>

Interest is computed through August 15, 2005.

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 \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE BY MAIL**

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

[Redacted]

[Redacted]

[Redacted]

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