

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

In the Matter of the Protest of )  
 ) DOCKET NO. 19506  
[REDACTED], )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

On February 24, 2006, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 2001 in the total amount of \$4,573.

On April 6, 2006, the taxpayer submitted a 2001 Idaho individual income tax return in lieu of the return prepared by the Bureau. The Bureau reviewed the return and found that the taxpayer claimed a credit for taxes paid to another state that offset a substantial portion of his Idaho tax. However, the taxpayer did not provide substantiation for the credit, i.e. the other state's income tax return. The Bureau did not accept the taxpayer's return but did consider the return to be a timely protest of the Notice of Deficiency Determination. 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 did not respond to the Tax Commission's hearing rights letter and has not provided any additional information for consideration. The Tax Commission, having reviewed the file, hereby issues its decision.

Idaho Code section 63-3029 provides for a credit for income taxes paid to another state or territory. The credit is available to resident individuals for the amount of any income tax imposed by another state on income from sources within that state that is also subject to tax by

Idaho. Subsection (3) places a limitation on the amount of the credit, and subsection (4) states the substantiation needed for the credit to be allowed.

The return the taxpayer submitted claimed the credit for taxes paid to another state. However, he did not provide the required substantiation for the credit. The taxpayer was contacted by the Bureau and the Tax Commission and asked to provide the necessary documentation. He failed to respond to any of the requests. Consequently, the Tax Commission has no verification that the taxpayer paid taxes to another state on income that was also reported to Idaho.

Credits, like deductions, are a matter of legislative grace, and the taxpayer must be able to show that the credit claimed is allowed by statute. New Colonial Ice Co. Inc. v. Helvering, 292 U.S. 435, 54 S.Ct. 788 (1934). If a taxpayer is unable to provide adequate proof of any material fact upon which a credit depends, no credit is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). The taxpayer has not provided the documentation necessary to sustain the allowance of the credit for taxes paid to another state. Therefore, the Tax Commission cannot allow the credit for taxes paid to another state.

In addition to the credit for taxes paid to another state, the taxpayer's return also showed withholdings on his Idaho wages. The Bureau's computation of the taxpayer's Idaho tax did not include any withholdings. Withholdings are generally documented by W-2 wage statements. The taxpayer included a W-2 wage statement with his return. Therefore, the Tax Commission allowed the withholdings as a credit against the taxpayer's Idaho tax.

WHEREFORE, the Notice of Deficiency Determination dated February 24, 2006, 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 taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$2,967	\$ 742	\$ 865	\$4,574

Interest is calculated to March 1, 2007.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, 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.  
  
\_\_\_\_\_