

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20100
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated March 5, 2007, asserting additional liability for Idaho income tax and interest in the total amounts of \$2,687 and \$9,595 for 2004 and 2005, respectively.

The petitioners were Idaho residents during 2004 and 2005. Mr. [Redacted] was employed in the Middle East during these years. They contended that his income from this employment was not taxable. Accordingly, they did not include this income in the computation of their Idaho taxable income.

The auditor determined that the income in question was taxable and, accordingly, adjusted the petitioners' Idaho taxable income and sent the petitioners the Notice of Deficiency Determination referred to above.

The petitioners' contended that Notice 2003-21 from the Internal Revenue Service was the authority for the exclusion of the income in question. However, upon examining this document, the Commission has failed to see that it provides such an exemption. During discussions with the representative of the petitioners, it was represented to the Commission that additional information would be provided by July 11, 2007, which would justify the petitioners receiving a reduction in their Idaho taxable income due to the federal foreign earned income exclusion. However, no such information has been received. Therefore, the Commission now renders its determination based

upon the information in the file at this time.

The authority provided by the petitioners forms the basis for the exclusion by military personnel of the income earned in the war zone. The Commission finds that Notice 2003-21 provides no such authority for civilian personnel such as Mr. [Redacted]. Those who seek an exemption from taxation must rest their claim on clear language in the law. Commissioner v. Glenshaw Glass Co., 348 U.S. 426, 430 (1955); United States Trust Co. v. Helvering, 307 U.S. 57,60 (1939). The Commission finds that the petitioners have provided no such authority. Therefore, the auditor's position must be affirmed.

WHEREFORE, the Notice of Deficiency Determination dated March 5, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER the petitioners to pay the following tax and interest (calculated to October 31, 2007):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$2,380	\$376	\$ 2,756
2005	8,981	909	<u>9,890</u>
		TOTAL DUE	<u>\$12,646</u>

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

An explanation of the petitioners' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2007, 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]

Receipt No.

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