

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20141
[REDACTED],)	
)	DECISION
Petitioners.)	
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)	

[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated January 11, 2007, asserting additional liability for Idaho income tax and interest in the total amounts of \$6,038 and \$359 for 2002 and 2003, respectively.

The petitioners lived in [Redacted] during all times relevant to this docket. The petitioners timely filed an Idaho resident income tax return for 2002. They timely filed a nonresident Idaho income tax return for 2003. The petitioners amended their 2002 and 2003 Idaho income tax returns to remove income [Redacted] paid for unused vacation and for severance pay.

The audit staff asked for the number of days worked to establish a basis for the allocation of the severance pay pursuant to Administrative Rule 272 which states, in pertinent part:

03. Calculation of Idaho Source Severance Pay. The amount of severance pay that is Idaho source income shall be equal to the severance pay received during the taxable year multiplied by the ratio of Idaho work days to total work days during either of the following: (3-15-02)

a. The employee's entire period of employment with such employer; or (3-15-02)

b. The employee's last twelve (12) months of employment with such employer. (3-15-02)

The petitioners failed to provide the requested documentation to the auditor. Therefore the auditor determined that all of the severance pay was attributable to a source in Idaho. The petitioners did not provide the information during this administrative appeal. The petitioners'

failure to provide a different basis for the determination of the taxable amount leaves the Commission little choice but to affirm the auditor's determination.

In reviewing the amount due for each of the years, the computation of the amounts on the Notice of Deficiency Determination was computed as if the refunds requested on the amended returns filed for each of the years had been paid to the petitioners. However, it was found that while the refund for 2003 had been paid, the requested refund for 2002 had not been paid. Therefore, the Notice of Deficiency Determination must be modified only to correct this discrepancy.

WHEREFORE, the Notice of Deficiency Determination dated January 11, 2007, is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER the petitioners receive the following refund of tax and interest (calculated to November 15, 2007):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$(898)	(\$248)	(\$1,146)
2003	305	68	<u>373</u>
		NET REFUND	<u>(\$ 773)</u>

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

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

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.
