

they would personally appear. The legal department sent another letter dated December 30, 2008, to the Petitioners asking for clarification of their letter within thirty (30) days or the Commission would proceed to issue a decision. The Commission has not received any further correspondence from the Petitioners.

Therefore, the Commission must decide this matter based on the information contained in the Commission's files. The Commission has reviewed the files, is advised of their contents, and now issues this decision. For the reasons set forth below, the Commission affirms, as modified, the July 10, 2008, deficiency determination.

FACTUAL BACKGROUND

The Petitioners did reside in Idaho during the 2007 taxable year. The Petitioners also filed an Idaho return for the 2007 taxable year. The Petitioners attached their federal return, W-2s, and federal Form 4852s to the Idaho return. The Petitioners also attached a letter and statement directing the IRS and the Commission to accept their returns as presented because of arguments similar to those presented in their protest. The Petitioners directed in what manner federal taxes were to be applied. The Petitioners also complained about issues including, but not limited to, how taxes are spent, the delivery of oil to the lower 48 states from Alaska, and the following statement, "It would be better if our economy would collapse than to try to save the World Bank or the IMF."

Based upon this information, the Petitioners claimed they had negative income for 2007 and requested a refund of withheld Idaho income taxes.

The Commission obtained federal data from original W-2s submitted by the Petitioners' employers and based upon that information determined that the Petitioners' income was greater

than that reported. Using this income, the Commission computed the taxes, penalty, and interest asserted in the Commission's NODD.

The correspondence the Commission has received from the Petitioner asserts arguments commonly made by tax protestors; similar arguments that the Commission repeatedly has addressed and rejected.

PROTESTED ISSUES

The Petitioners point to Beard v. Commissioner, 82 T.C. 766, 777, 1984 WL 15573 (1984), aff'd. 793 F.2d 139 (6th Cir. 1986), as support for their contention that their insufficient return and the accompanying information should be the only information considered by the Commission in determining their tax liability. The Petitioners also claim a deduction available to elementary and secondary teachers by the federal government on their Idaho return.

LAW AND ANALYSIS

The following law and analysis sets out that the Petitioners are subject to paying income tax in Idaho. That Petitioners have income upon which taxes are owed in excess of what they claimed on their returns. Also, that their arguments using the Beard case are misplaced, and they are not allowed the teacher expense deduction on their Idaho return.

1. Petitioners are subject to paying Idaho income tax.

Idaho has the authority to tax the Petitioners. See People of State of New York, ex rel. Cohn v. Graves, 300 U.S. 308, 312-13 (1937) "That the receipt of income by a resident of the territory of a taxing sovereignty is a taxable event is universally recognized. Domicile itself affords a basis for such taxation. Enjoyment of the privileges of residence in the state and the attendant right to invoke the protections of its laws are inseparable from responsibility for sharing the costs of government."; Shaffer v. Carter, 252 U.S. 37, 52 (1920) "[J]ust as a State may impose general income taxes upon

its own citizens and residents whose persons are subject to its control, it may, as a necessary consequence, levy a duty of like character, and not more onerous in its effect, upon incomes accruing to nonresidents from their property or business within the state, or their occupations carried on therein.”

Idaho Code § 63-3024 imposes an income tax on every resident individual measured by their taxable income. Resident is defined in Idaho Code § 63-3013 as any individual who has resided in the state of Idaho for the entire taxable year or who is domiciled in this state. The Idaho Legislature has clearly set forth that the Idaho income tax applies to residents of this state; and the Legislature has defined the term resident. The Petitioners reside in Idaho and are subject to the jurisdiction of Idaho to pay income tax as measured by their taxable income.

2. Petitioners have “taxable income”

Petitioners assert that they have negative taxable income. The courts have consistently held that wages or compensation for labor is income for income tax purposes. Coleman v. Commissioner, 791 F.2d 68, 70 (7th Cir. 1986); United States v. Lawson, 670 F.2d 923 (10th Cir. 1982); United States v. Buras, 633 F.2d 1356 (9th Cir. 1980); Mitchell v. Agents of State, 105 Idaho 419, 425 (1983); State v. Staples, 112 Idaho 105, 107 (Ct. App. 1986); Parsons v. Idaho State Tax Com’n, 110 Idaho 572, 575 (Ct. App. 1986).

Idaho Code § 63-3022 defined the term “taxable income” to mean “taxable income” as defined in section 63 of the Internal Revenue Code and adjusted as provided in the Idaho Income Tax Act. Section 63 of the Internal Revenue Code defines taxable income as “gross income minus the deductions allowed under this chapter.” Section 61 of the Internal Revenue Code provides that, except as otherwise provided in Subtitle A of the Internal Revenue Code, “gross income means all income from whatever source derived.” Idaho has incorporated these provisions in its tax laws.

63-3002. 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; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. All of the foregoing is subject to modifications in Idaho law including, without limitation, modifications applicable to unitary groups of corporations, which include corporations incorporated outside the United States. (Idaho Code § 63-3002.)

As incorporated into the Income Tax Act by Idaho Code § 63-3002, individuals are subject to Idaho income tax on their income from all sources, unless express federal or state exemptions, adjustments, or limitations apply. The Petitioners have not provided any information to establish that their income is exempt under the Internal Revenue Code or under any other law. Other than their incorrect returns and frivolous accompanying information and their patently wrong protest, the Petitioners also have not presented any correct factual information or sound legal argument to show that the Commission's income determination for the Petitioners is incorrect.

3. The Petitioners reliance on the Beard test is misplaced.

The Beard Court established a four-part test for determining whether the document a taxpayer submits should be accepted as a return for federal income tax purposes. This four-part

test the Petitioners point to is not relevant to making a decision in this matter. Beard is not relevant because the Petitioners are required to report their correct income to Idaho and also to make correct deductions and exemptions.

4. Idaho does not recognize the elementary/secondary education teachers' supply deduction

The Petitioners claim the elementary and secondary teachers' expenses deduction on their Idaho return. Although the Petitioners might be allowed to claim this deduction for federal tax purposes under Section 62(a)(2)(D) of the Internal Revenue Code, Idaho has specifically disallowed this deduction for Idaho tax purposes. Idaho Code 63-3022O(2).

CONCLUSION

The Petitioners filed a return for tax year 2007. The Commission, using federal information, found that the return filed by the Petitioners did not correctly state their income or correctly calculate Idaho taxes owed. The Petitioners reside in Idaho. The Petitioners claim they are not required to do anything more than file the return that fails to accurately report their income and claims an incorrect teacher deduction for Idaho. Petitioners do not provide a valid reason for not reporting their correct income and paying the correct amount of Idaho income taxes nor do they provide any factual information to show otherwise.

It is well settled in Idaho that a Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be correct. Albertson's Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814 (1984); Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Id. Since the Petitioners have failed to meet this burden, the Commission finds that the amount shown due on the Notice of Deficiency Determination is true and correct.

The Bureau also added interest, which interest will continue to accrue pending payment of the tax liability pursuant to Idaho Code § 63-3045(6), and penalty to the Petitioners' tax deficiency. The Commission modifies the penalty to an Idaho Code § 63-3046(a) penalty and, with this modification, finds the penalty and interest appropriate as provided for in Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated July 10, 2008, is hereby APPROVED, and AFFIRMED as MODIFIED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the Petitioners pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$859	\$43	\$64	\$966

Interest is calculated through June 30, 2009.

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.

DATED this _____ day of _____, 2009.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2009, 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]

Receipt No.
