

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 21425
[REDACTED],)
) DECISION
)
Petitioners.)
_____)

[Redacted] and [Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated August 7, 2008. The Notice of Deficiency Determination asserted additional Idaho income tax and interest in the total amount of \$759 for 2006.

The petitioners were part-year residents of Idaho during 2006. The petitioners lived in Idaho for the first three months of 2006 and then moved to Ohio for the remainder of the year. They earned \$23,231.62 in Idaho and \$100,173.19 in Ohio during 2006.

The only issue in this docket is the allowable amount, if any, of a credit for taxes paid another state. The petitioners did not request a hearing. They submit that they computed the credit exactly as directed by the instructions and that payment of the deficiency asserted would be a hardship.

In the computation of the credit for taxes paid another state, the number in question is the “amount of income taxed by Idaho and also taxed by another state.” The petitioners contend that this number should be \$19,187. The staff of the Commission contends that this number should be zero.

In the computation of their tax payable to the state of [Redacted], all of the petitioners’ income for the 2006 year was initially included in the computation of the tax. This amount was then reduced by the percentage that the Idaho income was of the total of the petitioners’ income for the

year. Despite this reduction, the petitioners contend that their income from Idaho was subject to tax by Ohio and by Idaho and, therefore, contend that they are entitled to a credit for taxes paid to Ohio on their income earned in Idaho. The Commission finds that the facts don't support the petitioners' position.

In addition, the Commission finds that the Idaho law does not support the petitioners' position. Idaho Code § 63-3029 sets out the authority for the credit for taxes paid another state. It stated, in pertinent part:

Credit for income taxes paid another state. (1) A resident individual shall be allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on the individual, an S corporation, partnership, limited liability company, or trust of which the individual is a shareholder, partner, member, or beneficiary (to the extent attributable to the individual as a result of the individual's share of the S corporation's, partnership's, limited liability company's or trust's taxable income in another state), for the taxable year by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.

The Idaho code allows a credit for taxes paid to, "another state on income *derived from sources therein.*" (Emphasis added.) The petitioners seek a credit for taxes paid to [Redacted] on income earned in Idaho. Therefore, the credit the petitioners seek is not available pursuant to the Idaho Code.

The petitioners also contend that payment of the deficiency would amount to an extreme financial hardship. The Commission staff sent the petitioners a financial statement form that they might complete to allow the Commission to make a determination of whether this would, indeed, constitute such a hardship. The petitioners did not complete and return the financial statement form. Therefore, the Commission cannot conclude that a hardship exists.

WHEREFORE, the Notice of Deficiency Determination dated August 7, 2008, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax and interest (computed to May 15, 2009):

| <u>YEAR</u> | <u>TAX</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|-----------------|--------------|
| 2006 | \$687 | \$95 | \$782 |

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.
