

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23867
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On February 23, 2011, the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers), proposing Idaho individual income tax and interest in the amount of \$320 for taxable year 2007.

The taxpayers filed a timely protest and petition for redetermination. They did not request a conference. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The taxpayers filed their 2007 Idaho individual income tax return showing a deduction for retirement income that had been included in [Redacted] adjusted gross income. The Bureau determined the taxpayers were not entitled to the deduction and also determined that not all income was included on the return. The Bureau made these adjustments to the taxpayers' return and issued an NODD.

On March 18, 2011, in response to the NODD, the taxpayers submitted an amended individual income tax return for taxable year 2007 that removed the retirement benefit deduction, included a portion of the omitted income, and included additional medical expenses. The Bureau treated the amended return as a valid protest and on March 21, 2011, sent the taxpayers a letter that acknowledged their appeal and requested a copy of the taxpayers' amended federal return. Two subsequent requests for this information were made by the Bureau but were unanswered.

On July 15, 2011, the Bureau sent the taxpayers a letter informing them that their amended return was not being accepted because they had not provided substantiation for the additional medical expenses, included all of the omitted income, or provided a copy of their amended [Redacted] return. The taxpayers responded on July 25, 2011, requesting more time in which to gather the information. The Bureau telephoned the taxpayers to clarify what information was being requested. The taxpayers stated it was impossible for them to gather the documents requested and that it is ridiculous for the state to pursue additional tax from retired people. Their file was forwarded to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-3022A describes certain retirements that can be deducted from taxable income as follows:

63-3022A. Deduction of certain retirement benefits. (a) An amount specified by subsection (b) of this section of the following retirement benefits may be deducted by an individual from taxable income if such individual has either attained age sixty-five (65) years, or has attained age sixty-two (62) years and is classified as disabled:

- (1) Retirement annuities paid by the United States of America to a retired civil service employee or the unremarried widow of a retired civil service employee.
- (2) Retirement benefits paid from the firemen's retirement fund of the state of Idaho to a retired fireman or the unremarried widow of a retired fireman.
- (3) Retirement benefits paid from the policemen's retirement fund of a city within this state to a retired policeman or the unremarried widow of a retired policeman.
- (4) Retirement benefits paid by the United States of America to a retired member of the military services of the United States or the unremarried widow of such member.

For taxable year 2007, the taxpayers claimed a deduction relating to retirement benefits received from [Redacted].

Deductions from gross income are a matter of legislative grace, and taxpayers must be able to show they fall within the terms of the deduction. New Colonial Ice Co. v. Helvering, 292 U.S. 435, 54 S. Ct. 788, (1934). Idaho Code § 63-3022A lists specific pension plans that can be deducted from gross income. In the present case, none of the pension plans for which the

taxpayers received benefits are included in that list and, therefore, do not qualify as deductions.

One might feel that the statutory treatment is unfair or otherwise unreasonable. The Idaho Supreme Court has addressed such circumstances. The Court stated, in part:

.... Taxpayer urges that ambiguous language of the statute should be so construed as to avoid socially undesirable or oppressive results. It may be agreed, where legislative language is ambiguous, and other rules of statutory construction do not control, the court should consider social and economic results. But in the instance we do not find the statutes involved to be ambiguous; no exemption is granted and the legislative intent is to impose a tax on residents of this state measured by taxable income wherever derived. In such case our duty is clear. We must follow the law as written. If it is socially or economically unsound, the power to correct it is legislative, not judicial. John Hancock Mutual Life Insurance Co. v. Neill 79 Idaho 385, 319 P2d 195 (1957). (Emphasis added.)

Herndon v. West, 87 Idaho 335, 339 (1964).

The law lists certain retirement benefits that can be deducted from gross income. The taxpayers' benefits are not listed. Based upon the foregoing discussion, the taxpayers' retirement benefits are not allowed as deductions from their taxable income.

In regards to the omitted income, Idaho Code § 63-3002 states an Idaho resident is taxed on income from all sources. The taxpayers' amended return submitted to the Bureau included \$967 and \$2,214 of unreported income from [Redacted]. According to Forms 1099-R and 1099-MISC filed with [Redacted], the taxpayers received \$1,115 from [Redacted] and \$2,214 from [Redacted]. Therefore, \$3,329 was added to the taxpayers 2007 Idaho individual income tax return as taxable income.

The taxpayers' amended Idaho individual income tax return also showed an increase in itemized deductions due to the taxpayers increasing their medical expenses claimed by \$3,964. The taxpayers provided a spreadsheet that listed these additional medical expenses but did not provide any other substantiation. Because the Bureau could not determine from this information if the claimed expenses are allowable medical expenses, the additional expenses claimed are

disallowed.

The amended return submitted by the taxpayers did incorporate some of the same adjustments made by the Bureau in their NODD. However, the taxpayers were unable to substantiate any of the medical expenses claimed on their federal schedule A, and they failed to include the full amount of taxable income from [Redacted]. The Bureau denied the amended return. The Commission, having reviewed the file, agrees that the NODD prepared by the Bureau better represents the taxpayers' Idaho income and income tax liability than the amended return submitted by the taxpayers.

THEREFORE, the NODD dated February 23, 2011, and directed to [Redacted], is AFFIRMED.

IT IS ORDERED that the taxpayers pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$274	\$53	\$327
		AMOUNT PAID	<u>(191)</u>
		TOTAL DUE	<u>\$136</u>

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

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

DATED this _____ day of _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2011, 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.
