

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24951
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On April 16, 2012, the staff of the Income Tax Audit Division (Audit) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing additional tax and interest for taxable years 2009 through 2011 in the total amount of \$2,257.

On May 1, 2012, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing and did not provide any additional information for the Commission to consider. The Commission, having reviewed the file, hereby issues its decision.

The taxpayers' 2009 through 2011 Idaho income tax returns were selected for audit. Specifically, the issues under review were the filing status of the taxpayers and whether wages paid to [Redacted] were included in Idaho taxable income.

The taxpayers are citizens and residents of [Redacted]. [Redacted] is enrolled at Idaho State University where he is a [Redacted]. The taxpayers filed nonresident Idaho income tax returns for taxable years 2009 through 2011 with a filing status of Married, filing joint and claiming that all the income received during the year was exempt by treaty. Attached to the taxpayers' returns each year were a W-2 Wage and Tax Statement from Idaho State University showing an amount for state wages and state income tax. The taxpayers included a copy of their [Redacted] return which included schedule OI-Other Information. It was on schedule OI that the taxpayers claimed the income earned by [Redacted] was exempt income under a tax treaty.

Audit determined the wages shown on the W-2s were not exempt income and corrected the taxpayers' return. Audit also made a correction to the taxpayers filing status and sent them an NODD which the taxpayers protested.

The taxpayers stated in their appeal letter that they agreed with the change in filing status but disagreed with the adjustment to include [Redacted] wages in taxable income. The taxpayers also stated the [Redacted] [Redacted] received was clearly exempt from U.S. taxation under the treaty between the [Redacted] and the United States. They cited article 20, section 1(c) as the applicable section of the treaty that exempted the income.

Audit reviewed the information and determined it was best that the matter be referred for administrative review. The Commission reviewed the matter and sent the taxpayers a letter giving them two options for having the NODD redetermined. The taxpayers did not respond. Therefore, the Commission decided the matter based upon the information available.

The treaty between the United States and the [Redacted] is known as the Convention between the Government of the United States of America and the Government of [Redacted] for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital. Article 20 of the treaty states:

Students, Trainees and Researchers

1. An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in that other State for the primary purpose of:
 - a) studying at a university or other accredited educational institution in that other State, or

b) securing training required to qualify him to practice a profession or professional specialty, or

c) studying or doing research as a recipient of a grant, allowance, or other similar payments from a governmental, religious, charitable, scientific, literary, or educational organization, shall be exempt from tax by that other State with respect to payments from abroad for the purpose of his maintenance, education, study, research, or training, and with respect to the grant, allowance, or other similar payments.

2. The exemption in paragraph 1 shall apply only for such period of time as is ordinarily necessary to complete the study, training or research, except that no exemption for training or research shall extend for a period exceeding five years.

3. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

[Redacted] income for each year of the NODD was identified as wage income and reported on form W-2. [Redacted] W-2 wages for taxable years 2009, 2010, and 2011, respectively, were \$19,570, \$20,353, and \$20,353; all were paid by Idaho State University.

Part 1, section (c) of Article 20 of the treaty specifically exempts income from grants or awards from a government, scientific, educational, or other tax-exempt organization. Idaho State University is an educational organization. However, the University did not identify any portion of [Redacted] income as a grant; [Redacted] income was identified as W-2 wages. This income is taxable by the United States and by the state of Idaho.

The corrections Audit made to the taxpayers' 2009 through 2011 Idaho income tax returns corresponded with the provisions of the treaty between the United States and [Redacted]. Therefore, the Commission upholds the Division's determination of the taxpayers' Idaho tax liability.

THEREFORE, the NODD dated April 16, 2012, is hereby AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$ 960	\$110	\$1,070
2010	1,019	70	1,089
2011	1,012	28	1,040
		REFUND HELD	<u>(884)</u>
		TOTAL DUE	<u>\$2,312</u>

Interest is calculated through December 21, 2012.

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 _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.
