

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 38909
[Redacted],	)	
	)	
Petitioners.	)	DECISION
_____	)	

**HISTORY**

On March 31, 2014, the Idaho State Tax Commission’s Revenue Operations Division (RO) issued a Notice of Deficiency Determination (NODD) to [Redacted] and power of attorney (POA) for the taxpayer. The NODD was for [Redacted] for Idaho individual income tax for taxable year 2010. The POA contested the NODD on behalf of [Redacted] and his wife, [Redacted] (Taxpayers). The deficiency was due to RO disallowing a credit on Taxpayers’ amended Idaho Form 43 for taxes paid to another state.

Mrs. [Redacted] was an Idaho resident all of taxable year 2010, with only [Redacted]-sourced income and Mr. [Redacted] was a part-year resident of Idaho. He was domiciled in [Redacted] from January through May (five months) and domiciled in Idaho from June through the end of the year (seven months). Even though Mr. [Redacted] lived in [Redacted] the first five months of the year, he only had Idaho-sourced income during that time and the rest of taxable year 2010. Taxpayers’ W-2s show that in taxable year 2010, Mrs. [Redacted] earned \$19,791 of [Redacted]-sourced income and Mr. [Redacted] earned \$16,640 of Idaho-sourced income. There is no evidence that Taxpayers had any other income.

Taxpayers originally filed their 2010 Idaho income tax returns using Idaho Form 40, which is the form for residents. On that form, Taxpayers calculated a credit of \$469 for taxes paid to [Redacted] on the \$19,791 [Redacted]-sourced income. Taxpayers subsequently

amended their 2010 Idaho income tax using Idaho Form 43, which is the form for part-year residents. On their amended Form 43, Taxpayers recomputed the \$469 Idaho credit for taxes paid to [Redacted]. They recalculated the credit as if they had \$26,725 of [Redacted]-sourced income instead of the \$19,791 from Mrs. [Redacted]W-2.

Changing the [Redacted]-sourced income from \$19,791 to \$26,725 resulted in an increase of \$6,934 of [Redacted]-sourced income. This increase reflected the portion of Mr. [Redacted] \$16,640 Idaho-sourced income that he earned while domiciled in [Redacted]. Since he was in [Redacted] the first five months of the year, Taxpayers counted the Idaho-sourced income that he earned during those first five months as [Redacted]-sourced income. Five months divided by twelve months equals 41.7 percent. Multiplying 41.7 percent by the \$16,640 Idaho-sourced income produces \$6,934, which is the amount by which Taxpayers increased their [Redacted]-sourced income.

Taxpayers also claimed a credit on their [Redacted] return for taxes paid to Idaho. Taxpayers used the exact same calculation on both the Idaho and [Redacted] returns to determine the credit amount. The calculation on Idaho Form 39NR, Part C, and [Redacted] Form 40P, Statement 1, was as follows:

[Redacted] income of \$26,725 (see [Redacted] Form 40P, line 38S) divided by total income on Idaho return of \$36,432 (see Idaho Form 43, line 31) equals 73.36%. Multiply 73.36% by the Idaho tax \$864 (Idaho Form 43, line 42) which produces a \$634 credit.  
( $\$26,725 / \$36,432 = 73.36\%$ ;  $73.36\% \times \$864 = \$634$ )

By taking the \$634 tax credit on the Idaho return, Taxpayers consequently did not have to pay Idaho taxes on \$26,725 of income. RO's reasoning for disallowing this credit was that Taxpayers already claimed a credit of \$634 on the [Redacted] return.

On March 27, 2014, the POA sent a letter to RO disputing the NODD. POA asserted that Mr. [Redacted] qualified for a credit on the [Redacted] return for taxes paid to Idaho and a credit on the Idaho return for the taxes paid to [Redacted].

### **DISCUSSION**

Idaho Code § 63-3029(1) states that a “resident individual shall be allowed a credit for the amount of any income tax imposed by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.” The code only allows taxpayers a credit for taxes paid to another state “derived from sources therein.” Taxpayers’ W-2s show that Mrs. [Redacted]’s \$19,791 of income came from working in [Redacted] and Mr. [Redacted] income of \$16,640 came from working in Idaho. Taxpayers cannot reclassify any of the Idaho-sourced income as [Redacted]-sourced income when computing the credit for taxes paid to [Redacted]. The calculation of the Idaho credit for taxes paid to [Redacted] should be based only on the \$19,791 of [Redacted]-sourced income.

Taxpayers want \$6,934 of their \$16,640 Idaho-sourced income to count as [Redacted]-sourced income because Mr. [Redacted] was living in [Redacted] at the time he earned that portion of Idaho-sourced income. This would increase Taxpayers’ [Redacted] income to \$26,725 (\$19,791 + \$6,934). Even if the Tax Commission allowed Taxpayers to count that \$6,934 as [Redacted]-sourced income, Idaho Code § 63-3029(1) requires that Mr. [Redacted] be “domiciled in Idaho” while earning that income; Mr. [Redacted] was domiciled in [Redacted] while earning that \$6,934.

Idaho Code § 63-3029(6) explains that “[t]he credit shall not be allowed if such other state allows a credit against taxes imposed by such state for taxes paid or payable under this chapter.” [Redacted] allows a credit for taxes paid to another state. In this case, [Redacted]

allows a credit for taxes paid on Mr. [Redacted] \$16,640 of Idaho-sourced income. *See* O.R.S. § 316.082. The Tax Commission will leave it to [Redacted] to determine whether Taxpayers correctly calculated their 2010 [Redacted] income tax return. The Idaho State Tax Commission is only concerned with the \$19,791 that Mrs. [Redacted] earned in [Redacted] while she resided in Idaho. [Redacted] imposes income tax on Mrs. [Redacted] \$19,791 of [Redacted] source income and does not allow a credit for the income tax Idaho imposed on this income. The credit that Idaho Code § 63-3029 allows for taxes paid to another state is available for Mrs. [Redacted] \$19,791 of [Redacted]-sourced income; it is not available for any part of Mr. [Redacted] \$16,640 of Idaho-sourced income.

Taxpayers calculated the credit correctly on their original return, but incorrectly on their amended return. Therefore, the computation of the Idaho credit for taxes paid to [Redacted] is as follows:

[Redacted] income of \$19,791 (see [Redacted] W-2) divided by total income on Idaho return of \$36,432 (see Idaho Form 43, line 31) equals 54.32%. Multiply 54.32% by the Idaho tax \$864 (Idaho Form 43, line 42) which produces a \$469 credit.  
( $\$19,791 / \$36,432 = 54.32\%$ ;  $54.32\% \times \$864 = \$469$ )

### **CONCLUSION**

The Tax Commission finds that Idaho Code allows Taxpayers a credit of \$469 for taxes paid to [Redacted]. Taxpayers correctly computed this \$469 credit on their original return, Idaho Form 40. However, Taxpayers must use Form 43, for nonresidents, since Mr. [Redacted] was not an Idaho resident during 2010. When Taxpayers amended their 2010 return, they correctly used the nonresident form, but they incorrectly computed a \$634 credit for taxes paid to another state. If Taxpayers would have used the correct credit of \$469 on their Amended Form 43, the end result is a refund that is \$21 less than the refund on their original return; This smaller refund is due to Taxpayers' correctly calculating their grocery credit, on their amended Form 43, as \$21

less than the grocery credit on their original Form 40. This results because a part year resident must prorate the grocery credit. See Idaho Income Tax Rules 770 and 771.

The refund on Taxpayers' original Form 40 was \$563, which the Tax Commission has already remitted to them; the refund on Taxpayers' amended Form 43 should be \$542, after correcting the credit for taxes paid to another state. Therefore, Taxpayers must return to the Tax Commission \$21 of their original refund.

THEREFORE, the NODD dated March 31, 2014, is hereby MODIFIED and as modified, is APPROVED, AFFIRMED, and MADE FINAL as to taxable year 2010.

IT IS ORDERED that the Taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2010	\$21	\$0	\$0	\$21

The Tax Commission calculated interest for the above deficiency through October 31, 2014.

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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2014, 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. \_\_\_\_\_