

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

In the Matter of the Protest of )  
 ) DOCKET NO. 39140  
[Redacted], )  
 )  
 )  
 ) Petitioners. ) DECISION  
 )  
\_\_\_\_\_ )

[Redacted] and [Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the Idaho State Tax Commission (Commission) dated July 17, 2014, asserting additional liabilities for Idaho income tax and interest in the total amount of \$146.29 for taxable year 2013.

The only issue in this docket is the correct amount of retirement benefits deduction to be reported on the petitioners' Idaho Form 39R, section B, Subtractions. There is no question concerning whether or not the benefits qualify, but rather the correct number to be used in the calculation of the benefit.

Idaho Code § 63-3022A, states the following:

(A) If you are age 65 or older, or if you are disabled and age 62 or older certain retirement benefits may be deducted from your income. (1) Retirement annuities paid by the United States of America to a retired civil service employee or the un-remarried 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 un-remarried widow of a retired fireman. (3) Retirement benefits paid from the policeman's retirement fund of a city within this state to a retired policeman or the un-remarried 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 un-remarried widow of such member.

The amount of retirement benefits deduction to be entered on line 8, of section B of the Form 39R, and then added to other subtractions to reduce Idaho adjusted gross income, is determined after completing subsection C of the Form 39R, shown below:

<b>C. Retirement Benefits Deduction. See instructions, page 24, for qualified retirement benefits.</b>			
1. If single enter \$30,396, or if married filing jointly enter \$45,594 .....	1		00
2. Federal Railroad Retirement benefits received .....	2		00
3. Social Security benefits received .....	3		00
4. Line 1 minus lines 2 and 3. If less than zero, enter zero .....	4		00
5. Qualified retirement benefits included in federal income .....	5		00
6. Enter the smaller of line 4 or 5 here and on Part B, line 8 .....	6		00

The instructions for section C in relevant part, state:

**LINE 3** Enter the amount of retirement benefits you (and your spouse) received under the Federal Social Security Act, Box 5 of your Forms SSA-1099. If you or your spouse received Canadian Social Security benefits that are included in your federal taxable income, include those amounts received.

In the present case, the petitioners received, according to their [Redacted] return, \$13,174 in social security benefits, \$11,198 of which was taxable. Therefore, the correct amount to be entered on line 3 of part C is \$13,174, not \$11,198. The amount on line 1 in the petitioners' case, is \$45,494, line 2 is 0, resulting in an amount on line 4 of \$32, 420, not the \$34,396 shown on the petitioners' return. When the correct amount of retirement benefits deduction is used, the result is a decrease to the total amount of subtractions and a subsequent increase to Idaho taxable income of \$1,976, which results in an additional amount of tax due.

THEREFORE, the Notice of Deficiency Determination dated July 17, 2014, is hereby APPROVED and MADE FINAL.

IT IS ORDERED, and this DOES ORDER, that the petitioners pay the following amount of tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2013	\$145	\$8	\$153

Interest is calculated through June 30, 2015.

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 \_\_\_\_\_ 2015.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2015, 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.

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