

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|--------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 0-803-033-088 |
| [Redacted] |) | |
| , |) | |
| |) | DECISION |
| Petitioners. |) | |

On November 18, 2015, the Revenue Operations Division (Division) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to **[Redacted]**

(Petitioners) asserting income tax, penalty, and interest in the amount of \$11,357.96 for the 2014 taxable year. The notice advised Petitioners that if they disagreed with the deficiency determined by the Division they could petition the Tax Commission for a redetermination.

On October 27, 2015, Petitioners' representative sent the Commission a letter requesting a redetermination of the deficiency. The Commission acknowledged this letter as a valid protest. Petitioner subsequently requested a telephonic hearing which took place on February 17, 2016.

This decision is based on the information contained in the Commission's files, and information received during the telephonic hearing. The Commission has reviewed the files, is advised of their contents, and now issues this decision. For the reasons set forth below, the Commission affirms the deficiency for the 2014 taxable year determined by the Division with interest updated through June 17, 2016.

This is an income tax case, specifically related to credit for taxes paid. Petitioners live in Idaho and have business income from California. Petitioners filed both Idaho and California individual income tax returns. On their California income tax return, Petitioners qualified for and claimed the California Enterprise Zone Hiring credit. This credit reduced Petitioners'

California income tax liability to zero dollars. On their Idaho income tax return, when calculating their credit for taxes paid to another state, Petitioners excluded the California Enterprise Zone Hiring credit. This resulted in the Petitioners claiming they paid \$11,500 in California income tax. Petitioners claim the California Enterprise Zone Hiring credit was properly excluded from the credit for taxes paid calculation because it is akin to a “special fuels or gas tax” which is expressly excluded from credit for taxes paid calculations.

States often grant a credit for taxes paid to another state to ensure a taxpayer’s income is not double taxed. Idaho grants taxpayers a credit for taxes paid to another state codified in Idaho Code § 63-3029:

(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... 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.

(c) The credit provided under this section shall further be limited to the tax paid to the other state.

Idaho Income Tax Administrative Rules further define the limits of the credit for taxes paid:

05. The income tax payable to another state shall be the tax paid after the application of all credits. The tax paid to the other state must be for the same taxable year that the credit is claimed. Tax paid to cities or counties does not qualify for the credit.

a. The credit allowed may not exceed the amount of tax actually paid to the other state. This includes the amount paid by a qualifying individual and the amount paid for such individual by an S corporation, partnership, limited liability company, estate, or trust.

IDAPA 35.01.01.700.05 through .06.

Petitioners paid no California income tax. During the telephonic hearing, Petitioners’ representatives claimed that the California Enterprise Zone Hiring credit is not a true income tax credit. Instead, Petitioners claim the Enterprise Zone Hiring credit is a special tax credit

unrelated to income. Regardless of the Enterprise Zone Hiring credits classification, the credit had the effect of reducing the Petitioners' California income tax liability. Idaho Income Tax Rules state "the income tax payable to another state shall be the tax paid after the application of *all* credits." After *all* credits were applied, including the Enterprise Zone Hiring credit, Petitioners' California income tax liability was zero dollars. Petitioners incorrectly claimed to have paid \$11,500 in California income taxes. The Idaho credit for taxes paid is limited to the tax paid to another state, because Petitioners *paid* zero dollars in California income tax, their claim is disallowed.

Petitioners also claim that the Enterprise Zone Hiring Credit should be excluded from credit for taxes paid calculations because it is akin to a "special fuels or gasoline tax credit or refund" which is expressly excluded from credit for taxes paid calculations. This argument is unconvincing. Petitioners have incorrectly interpreted the Form 39R instructions page. The Form states:

LINE 6 Enter the other state's tax due from its tax table or rate schedule less its tax credits... Income tax credits are those credits that relate to income tax. An example of a credit that isn't an income tax credit is a special fuels or gasoline tax credit or refund.

A "special fuel or gasoline tax credit or refund" can be filed "separately or in conjunction with the claimant's income tax return." Idaho Code § 63-2410. If a special fuel or gasoline tax refund is filed separately (at a different time) than an income tax return, it would not "relate" to income tax and would not be considered an income tax credit. Alternatively, any credits claimed on an income tax return that offset income tax liability would "relate" to income tax. The Enterprise Zone Hiring credit was claimed on the Petitioners' California income tax return and reduced Petitioners' California income tax liability, thus the credit relates to income tax and is not akin to "a special fuel or gasoline tax credit or refund." Had the Enterprise Zone Hiring

credit resulted in a refund being issued midyear, unrelated to income tax, the credit may have been more analogous to a special fuel or gasoline credit. However, under its current administration offsetting income tax liability, the Enterprise Zone Hiring credit *relates* to income tax.

Petitioners had California income tax liability and they used a California tax credit to lessen this liability. Under the Petitioners expansive interpretation of Form 39R, the exclusion of the California tax credit essentially allows Petitioners an \$11,500 credit on both California and Idaho income tax returns. This incorrect interpretation is prevented by Idaho Code and Rules which limit the Idaho credit for taxes paid to the actual amount *paid* to the other state. Here, that amount was zero dollars. Therefore, based on the information available, the Tax Commission finds the amount shown due on the Notice of Deficiency Determination is true and correct.

THEREFORE, the Notice of Deficiency Determination dated November 18, 2015, and directed to **[Redacted]**, is hereby APPROVED and MADE FINAL.

IT IS ORDERED that the Petitioners pay the following tax, penalty, and interest.

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|-------------|----------------|-----------------|--------------|
| 2014 | \$11,205.11 | \$114.56 | \$38.29 | \$11,357.96 |

Interest is calculated through June 17, 2016, and will continue to accrue until paid.

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 _____ 2016.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2016, 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.