

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-968-656-384
[Redacted]	,)
)	
Petitioners.)	DECISION
)	

On May 9, 2016, the Revenue Operations Division of the Idaho State Tax Commission issued a Tax Correction letter to **[Redacted]** (Petitioners), for taxable year 2015 proposing Idaho income tax in the total amount of \$3,469. Petitioners protested the correction and requested a redetermination. The Tax Commission, having reviewed the entire file and being fully advised thereof, hereby issues its decision.

Petitioners received deferred compensation from **[Redacted]** former Idaho employer in 2015 for which Petitioners received a W-2 Wage and Tax Statement showing the deferred compensation was Idaho source wages on which Idaho withholdings were made. Petitioners filed an Idaho nonresident individual income tax return to get a refund of their withholdings. Because Petitioners' deferred compensation was shown as Idaho W-2 wages, Taxpayer Accounting corrected Petitioners' return asserting Idaho income tax.

Petitioners provided additional information and documentation to show that they were not residents of or domiciled in Idaho in 2015. Petitioners stated **[Redacted]** retired and was given the option to receive his deferred compensation within a certain number of years. **[Redacted]** chose that option and began receiving his retirement income. When Petitioners found that **[Redacted]** former employer was reporting the distributions from the deferred compensation plan as wages, Petitioners contacted his employer and asked them not to withhold for Idaho since they were no longer residents of Idaho. Petitioners stated the employer would

not make the change. Petitioners stated the employer told them they were withholding as per their procedures.

The Tax Commission reviewed the information Petitioners provided and found Petitioners were not residents of or domiciled in Idaho in 2015. Therefore, Idaho cannot tax Petitioners on the distributions from **[Redacted]** employer's deferred compensation plan. *See* State Taxation of Pension Income Act of 1995 (P.L. 104-95); 4 U.S.C. section 114. "No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State."

Therefore, the Tax Commission finds the 2015 Idaho income tax return filed by Petitioners the correct filing in order to claim the withholdings withheld on **[Redacted]** deferred compensation.

THEREFORE, Revenue Operations' correction letter dated May 9, 2016, and directed to **[Redacted]** is CANCELLED.

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.
