

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 39235
[Redacted] ,)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated July 25, 2014 issued by the staff of the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission proposing additional income tax and interest for taxable year 2011 in the total amount of \$2,157. Petitioners disagreed that they were residents of Idaho and that all their income was reportable to Idaho. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioners filed a 2011 Form 40 Idaho resident individual income tax return. Petitioners' Idaho return was selected for examination when it was found that Petitioners' Idaho adjusted gross income was not the same as their federal adjusted gross income. The Bureau sent Petitioners a letter asking them to explain the difference between their federal adjusted gross income and their Idaho adjusted gross income. Petitioners failed to respond. The Bureau determined Petitioners failed to report all their income, so it corrected Petitioners' Idaho return and sent them a Notice of Deficiency Determination.

Petitioners protested the Bureau's determination stating that they were not residents of Idaho. Petitioners stated they purchased a house in Washington in 2003 and began living in Washington in 2004. Petitioners stated that Mr. ^[Redacted] has not worked in Idaho since 2007; it is Mrs. ^[Redacted] that works in Idaho and only her income is reportable to Idaho. Petitioners stated

they checked with the Tax Commission before filing their income tax returns and filed according to the Tax Commission's instructions.

The Bureau acknowledged Petitioners' protest and continued corresponding with Petitioners to resolve the matter. The Bureau told Petitioners that because they filed a 2011 Form 40 the assumption was that Petitioners were Idaho residents. Petitioners stated again that they were not Idaho residents in 2011 and have not been Idaho residents for many years. The Bureau determined, based upon Petitioners' statements that Petitioners filed their Idaho income tax return on the wrong form. The Bureau determined Petitioners should have used Form 43 – Part-year/Nonresident Idaho Income Tax Return. The Bureau prepared a nonresident Idaho income tax return for Petitioners and sent them a modified audit report. The Bureau also asked Petitioners to withdraw their protest.

Petitioners did not respond to the Bureau's modified audit report or to its request to withdraw their protest. Consequently, the Bureau referred the matter for administrative review.

The Tax Commission sent Petitioners a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioners did not respond. The Tax Commission reviewed the matter and determined Petitioners had ample opportunity to address the matter and provide additional information. Therefore, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3002 states that it is the intent of the Idaho legislature to impose a tax, measured by income, on the residents of Idaho on their income from all sources wherever derived, and on nonresidents of Idaho on their income from Idaho sources.

Petitioners stated they left Idaho in 2004; Petitioners are nonresidents of Idaho. Therefore, only Petitioners' Idaho source income is reportable and taxable by Idaho. Petitioners stated that in tax year 2011, Mrs. ^[Redacted] worked in Idaho for the **[Redacted]** ; Idaho source income. Petitioners also stated that Mr. ^[Redacted] did not work in 2011, but he did receive a pension; not Idaho source income.

Since Petitioners are nonresidents but have Idaho source income, Petitioners should have filed a nonresident Idaho income tax return. However, Petitioners filed a resident Idaho income tax return. Idaho residents get the benefit of the full exemption amount and the full standard deduction (or itemized deductions) on the Idaho resident income tax return. Nonresidents of Idaho get a prorated exemption and standard deduction based upon their ratio of Idaho source income to total income. *See* Idaho Code section 63-3026A.

The Bureau's modified audit report corrected Petitioners' residency status from resident to nonresident. The Bureau computed Petitioners' Idaho tax in accordance with Idaho Code section 63-3026A. The Tax Commission reviewed the Bureau's modified audit report and the subsequent nonresident income tax return. The Tax Commission found the Bureau's calculation of Petitioners' Idaho income tax accurate, based upon the information available, and in accordance with Idaho's income tax statutes. Therefore, because Petitioners have presented nothing to show the Bureau's modified audit report is erroneous, Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986), the Tax Commission upholds the Bureau's modified determination.

THEREFORE, the Notice of Deficiency Determination dated July 25, 2014, and directed to **[Redacted]** is hereby AFFIRMED as MODIFIED by this decision.

IT IS ORDERED that Petitioners pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2011	\$483	\$77	\$560

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.
