



Bureau determined Petitioners had \$122,902 ( $\$73,741 \div 60\% = \$122,902$ ) in Idaho capital gain net income to qualify for the Idaho capital gains deduction.

Petitioners appealed the determination contending the capital gain income was not Idaho sourced income and as nonresidents they were only required to report Idaho source income. Based on the information provided, the Bureau agreed Petitioners did not have any Idaho capital gain net income. Consequently, the Bureau determined Petitioners did not qualify for the Idaho capital gain deduction because Petitioners had no Idaho capital gain net income. Therefore, the Bureau issued the modified Notice proposing a tax increase of \$251. In the modified Notice the Bureau calculated capital gains income of \$0 and an Idaho capital gains deduction of \$0.

Accordingly, based on the facts presented, Petitioners do not qualify for an Idaho capital gain deduction of \$73,741 under Idaho Code section 63-3022H(1). On appeal, a deficiency determination issued by the Tax Commission “is presumed to be correct, and the burden is on the taxpayer to show that the [Tax] Commission’s decision is erroneous.” *Parker v. Idaho State Tax Comm’n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson’s Inc. v. State Dep’t of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Tax Commission requires Petitioners to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, Petitioners did not provide adequate evidence. As a result, the Tax Commission will uphold the modified Notice.

THEREFORE, the modified Notice of Deficiency Determination dated November 8, 2019, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2018	\$251	\$15	\$266

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

Interest is calculated through July 20, 2020 and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

An explanation of Petitioners' right to appeal this decision is included with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 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:



Receipt No.

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