

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

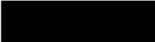
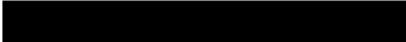
In the Matter of the Protest of



_____)
Petitioners.)

) DOCKET NO. 0-814-790-656

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) DECISION

On March 26, 2019, the Revenue Operations Division (Division) of the Idaho State Tax Commission (Commission) issued a Notice of Refund Determination (Notice) to 
 (Petitioners), reducing their 2018 Idaho nonresident individual income tax (Form 43) refund to \$0 and **assessing tax due, in the amount of \$449.**

On April 10, 2019, Petitioners filed a timely appeal and petition for redetermination of the Notice and paid the tax due. The Commission then sent Petitioners hearing rights letters dated September 27, 2019, and November 21, 2019.

On November 26, 2019, Petitioners contacted the Commission requesting a protest withdrawal form. The Commission sent Petitioner a copy of the protest withdrawal form on November 26, 2019 and February 3, 2020. However, Petitioners did not return a signed copy of the withdrawal form.

The Commission reviewed Petitioners' file and upholds the Notice for the reasons that follow.

Background and Audit Findings

Petitioners are Oregon residents. In 2018, Petitioners received Idaho source income which they reported to Idaho on Form 43. When Petitioners filed Form 43, they claimed a child tax credit (Credit) in the amount of \$205 for each child listed on their return, totaling \$615.

The Division reviewed Petitioners' 2018 Form 43 and determined they were not entitled to the Credit because Petitioners were nonresidents of Idaho.

Protest

Petitioners strongly object to the retroactive changes that were made to the law, arguing that these types of changes undermine public trust in the Idaho government and its governing bodies.

Relevant Tax Code and Analysis

At the beginning of 2018, the Idaho Legislature (Legislature) added section 63-3029L to the Idaho Code for tax years beginning on or after January 1, 2018. This new section of the law provided a nonrefundable credit to taxpayers in the amount of \$130 for each qualifying child of the taxpayer.

Later in 2018, the Legislature retroactively amended section 63-3029L, Idaho Code, increasing the Credit to \$205. This section of the law was then retroactively amended again, at the beginning of 2019, to clarify that the Credit was only available to Idaho residents.

As amended by HB 19, § 63-3029L, Idaho Code, currently states in relevant part:

63-3029L. CHILD TAX CREDIT.

- (1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, there shall be allowed to a taxpayer a nonrefundable credit against the tax imposed by this chapter in the amount of two hundred five dollars (\$205) with respect to each qualifying child of the taxpayer. For purposes of this section, the term "qualifying child" has the meaning as defined in section 24(c) of the Internal Revenue Code. In no event shall more than one (1) taxpayer be allowed this credit for the same qualifying child. This credit is available only to Idaho residents. Any part-year resident entitled to a credit under this section shall receive a proportional credit reflecting the part of the year in which the part-year resident was domiciled in Idaho.

The Commission has a duty to administer and enforce the laws established by the Legislature. However, the Commission has no judicial authority to rule on the Legislature's ability to make retroactive changes to the law, including changes that were made to section 63-3029L, Idaho Code.

In this case, Petitioners are nonresidents of Idaho that claimed a Credit in the amount of \$615. Since the Credit is only available to Idaho residents, the Commission finds Petitioners are not entitled to the Credit.

Conclusion

On appeal, a deficiency determination issued by the Commission “is presumed to be correct, and the burden is on the taxpayer to show that the 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 Commission requires Petitioners to provide adequate evidence to establish that they are entitled to the Idaho child tax credit, both as to law and fact, which they have not done.

THEREFORE, the Notice, dated March 26, 2019, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

Since Petitioner paid the tax due, in the amount of \$449, the Commission finds no additional money is due and makes no demand for payment.

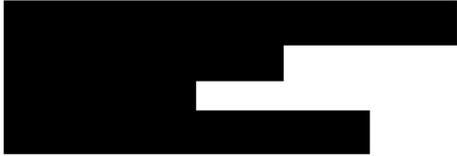
An explanation of Petitioners’ right to appeal this decision is included with this decision.

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.
