



removal of the child tax credit. Petitioners protested the decision to deny them the credit. Accounting accepted Petitioners' protest and transferred the matter for administrative review.

The Commission reviewed the matter and sent Petitioners a letter with two options for addressing a protested Notice. Petitioners requested an informal hearing and during the hearing they admitted not being residents of Idaho. Petitioners were also made aware of the state legislature retroactively restricting the Idaho child tax credit to residents. The Commission decided the matter after a review of all available information.

### **LAW AND ANALYSIS**

Petitioners stated in their protest they were unaware of the residency requirement. Idaho Code<sup>1</sup> restricts the Idaho child tax credit to residents. The Idaho legislature adopted and passed this code in 2018 providing a credit for qualifying children. In 2019, the code was amended to restrict the credit to Idaho residents and Idaho part-year residents only retroactive to January 1, 2018. The act of amending tax law and making it retroactive is a common practice. In addition, retroactive tax law changes are not illegal or unconstitutional and the Commission must follow the law as written. Petitioners have admitted on their Idaho return and verbally to the Commission they are not residents of the state of Idaho.

### **CONCLUSION**

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<sup>1</sup> **63-3029L. Child Tax Credit.** States in part: (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.

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 prove the amount asserted in the Notice is incorrect. Here, Petitioners did not prove the Notice is incorrect. Therefore, Petitioners are not allowed the Idaho child tax credit.

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

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:

[Redacted]

Receipt No.

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