

Petitioners' statement that the law changed after their return was filed is accurate.¹ However, retroactive tax law changes are not illegal or unconstitutional and the Commission must follow the law as written. The Commission does not have authority to review the constitutionality of tax statutes. This is "a judicial problem that only the courts have power to decide. It is not a proper question for determination by an administrative board even though it may in its normal proceedings exercise quasi-judicial powers." *Wanke v. Ziebarth Const. Co.*, 69 Idaho 64, 75, 202 P.2d 384, 391 (1948).

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 they are entitled to the Idaho child tax credit, both as to law and fact, which they have not done.

THEREFORE, the Notice dated April 8, 2019, is hereby APPROVED and MADE FINAL. IT IS ORDERED that Petitioners pay the following tax and interest for taxable year 2018.

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2018	\$687	\$10.31	\$697.31
		Payment Rec'd	<u>697.31</u>
		TOTAL DUE	\$0

Petitioners have paid in full the amount of tax and interest due. Therefore, no DEMAND for payment is made or necessary.

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

¹Idaho Code § 63-3029L, was adopted on March 12, 2018, and allowed a nonrefundable child tax credit for each qualifying child of a taxpayer. On February 12, 2019, Idaho Code § 63-3029L was amended to add the language: "This credit is only available to Idaho residents. Any part-year resident entitled to a credit under this section shall receive a proportionate credit reflecting the part of the year in which he [she] was domiciled in this state."

DATED this _____ day of _____ 2019.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2019,
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.
