

In the Matter of the Protest of

Petitioners.

DECISION

BACKGROUND

Petitioners contacted the Bureau stating that they failed to claim a credit for taxes paid to another state. Petitioners stated they would fax a copy of the other state's return and file a protest.

The Bureau received Petitioners' protest and a partial copy of the other state's income tax return. Petitioners protest was that they paid state taxes on their wages to the state in which the wages were earned and where they lived at the time. Petitioners asked for another review of their return.

The Bureau acknowledged Petitioners' protest and the receipt of the additional information. The Bureau informed Petitioners that the information, California return, was incomplete and that there was not enough information to determine the tax paid to California for the credit for taxes paid to another state. The Bureau asked Petitioners to send it a complete California return. Petitioners sent in a complete California return, and the Bureau modified its audit to include a credit for taxes paid to California.

Even though the Bureau modified its audit, Petitioners did not respond and withdraw their protest. Therefore, the Bureau referred the matter to the Tax Commission's Appeals Unit (Appeals).

Appeals reviewed the matter and sent Petitioners a letter that discussed the options available to redetermine a Notice of Deficiency Determination. Petitioners did not respond. Considering Petitioners had plenty of time to respond, the Tax Commission decided the matter based on the information available.

LAW AND ANALYSIS

Petitioners lived in Idaho and California in 2014. According to Department of Labor information, Petitioners moved from Idaho to California. [REDACTED] apparently left Idaho before [REDACTED] since Petitioners reported that [REDACTED] was a four-month resident of Idaho and [REDACTED] was a one-month resident of Idaho. This is also shown by the Department of Labor records, in that [REDACTED] earned first quarter wages and [REDACTED] earned first and second quarter wages.

Idaho and California are community property states. As such, married taxpayers are

required to report the total income of the community and allocate their income to each state based on each states' community property laws. Both [REDACTED] and [REDACTED] earned wages while living in Idaho. However, only [REDACTED] earned wages while Petitioners lived in California. Since Idaho and California are community property states and income was earned in California while at least one Petitioner lived in Idaho, an allocation of community income to each Petitioner is required. *See* Idaho Code § 32-906 and California Family Code § 760.

Wages are community property in both Idaho and California. Therefore, half of [REDACTED] California wages are [REDACTED] and half of [REDACTED] Idaho wages are [REDACTED]. Since [REDACTED] was a resident of Idaho for three months when [REDACTED] lived and worked in California, a portion of [REDACTED] California wages is taxable by Idaho. *See* Idaho Code § 63-3002 and *Parker v. Idaho State Tax Com'n*, 148 Idaho 842 (2010).

The Bureau adjusted Petitioners' income to include an allocation of [REDACTED] wages to [REDACTED] for the four months she resided in Idaho. The Bureau also allocated one month of [REDACTED] California wages to Idaho for the month Petitioners reported [REDACTED] resided in Idaho. The Bureau calculated a credit for taxes paid to California and adjusted Petitioners' grocery credit to account for the time Petitioners were in Idaho. The Bureau also adjusted Petitioners' moving expense deduction because of the change to Petitioners' adjusted gross income.

The Tax Commission reviewed the Bureau's adjustments and agrees with the adjustments in principle but not in the amounts. From the record, it shows Petitioners moved out of Idaho rather than moving in. Consequently, the wages [REDACTED] earned in California should not be allocated to Idaho for the one-month Jeffrey resided in Idaho. However, Petitioners did not report the wages [REDACTED] earned in Idaho while he resided in Idaho. The Bureau's allocation of [REDACTED] California wages to [REDACTED] was based on four months out of twelve that [REDACTED] worked in

California. [REDACTED] employment and residence in California was, at most, eleven months. Of those eleven months, [REDACTED] was in Idaho three months. Therefore, the correct allocation of [REDACTED] California wages to [REDACTED] for Idaho community property is three/elevenths (3/11), not four/twelfths (4/12).

The Bureau modified the Notice of Deficiency Determination to include a credit for taxes paid to another state, i.e. California. The Tax Commission reviewed the credit and found the credit appropriate; however, the computation of the credit needed to be revised because of the above change to Idaho adjusted gross income, the change to Idaho tax, and the change in the amount of income taxed by both states. Therefore, the Tax Commission modified the credit in accordance with those changes.

The Bureau adjusted Petitioners' allowable moving expense deduction because of the change made to Petitioners' Idaho adjusted gross income. Again, the Bureau's adjustment was appropriate. However, because of the changes made to Petitioners' Idaho adjusted gross income by this decision, the Tax Commission must also modify Petitioners' moving expense deduction.

The Bureau disallowed a portion of Petitioners' claimed grocery credit. The Bureau's disallowance was based on the fact that between Petitioners they only resided, in Idaho, a combined total of five months. However, the Bureau did not account for Petitioners two children nor did the Bureau account for the increase in Idaho tax from its income adjustments. *See* Income Tax Administrative Rules, IDAPA 35.01.01.771.02. Therefore, the Tax Commission increased the amount of Petitioners' Idaho grocery credit.

CONCLUSION

Petitioners were part-year residents of Idaho in 2014. Petitioners moved from Idaho to California [REDACTED] left Idaho after the first month of 2014. [REDACTED] did not leave until April. While

■■■■■ lived in Idaho, ■■■■■ earned wages in California. Because Idaho and California are community property states, a portion of the wages earned by ■■■■■ was taxable by Idaho. Likewise, a portion of ■■■■■ wages was taxable by California. Petitioners' 2014 Idaho income tax return did not report the community property allocation of income. The Tax Commission made the allocation and hereby corrects Petitioners' 2014 Idaho income tax return.

In addition to the income allocation, the Tax Commission made corresponding adjustments to Petitioners' moving expense deduction, allowed Petitioners a credit for taxes paid to another state, and allowed Petitioners their grocery credit that was previously limited by their Idaho tax.

The Bureau added interest to Petitioners' Idaho tax liability. The Tax Commission reviewed that addition and found it appropriate and in accordance with Idaho Code § 63-3045.

THEREFORE, the Tax Commission MODIFIES the Notice of Deficiency Determination dated March 27, 2018, directed to ■■■■■ and ■■■■■.

IT IS ORDERED that Petitioners' pays the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2014	\$182	\$32	<u>\$214</u>

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

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

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.

