

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

|                                 |   |                          |
|---------------------------------|---|--------------------------|
| In the Matter of the Protest of | ) |                          |
|                                 | ) | DOCKET NO. 0-904-496-128 |
|                                 | ) |                          |
|                                 | ) |                          |
| Petitioners.                    | ) | DECISION                 |
|                                 | ) |                          |

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(Petitioners) protested the Notice of Deficiency Determination dated August 29, 2022. Petitioners disagreed with Taxpayer Accounting’s adjustment to their 2021 Idaho individual income tax return disallowing the subtraction of military income. The Tax Commission reviewed the matter and for the following reasons modifies the Notice of Deficiency Determination.

**BACKGROUND**

Petitioners filed a part-year resident Idaho individual income tax return for tax year 2021. During the processing of Petitioners’ return, it was identified as a return with a possible error. Taxpayer Accounting reviewed Petitioners’ return and found that Petitioners claimed a subtraction for military income and claimed the child tax credit in an amount well over the amount allowed for two dependent children. Taxpayer Accounting sent Petitioners a letter asking for information about the military income and the dates Petitioners were in Idaho in 2021. Petitioners provided the information, Taxpayer Accounting reviewed it, and made corrections to Petitioners’ return. Taxpayer Accounting sent Petitioners a Notice of Deficiency Determination stating that they treated their military income incorrectly and that the child tax credit was calculated incorrectly.

Petitioners protested Taxpayer Accounting’s determination stating they were confused with the addition of military income since his home of record was Tennessee and he received the income while stationed in Virginia. Petitioners stated did not become an

Idaho resident until after he retired from the military on April 1, 2021. Petitioners stated military income should not be taxed by Idaho. Petitioners stated they also should not be charged penalty and interest since they electronically paid the tax due on their return when they filed their return and somehow it was deducted from their account twice. Both payments totaled more than what Taxpayer Accounting determined was their additional tax.

Taxpayer Accounting acknowledged Petitioners' protest and referred the matter to the Tax Commission's Appeals Unit (Appeals). Appeals reviewed the matter and sent Petitioners a letter explaining that based upon the information they provided and a review of their return, it is clear that [redacted] received military income and that that income is not taxable by Idaho. Appeals also explained the adjustment to Petitioners' child tax credit.

Petitioners responded stating they accept Appeals assessment of their case. Petitioners did have questions about the additional payment withdrawn from their account and the penalty and interest charged since full payment was made at or near the time of filing their return. Appeals informed Petitioners that the appropriate corrections would be made, and any overpayment would be refunded.

## **LAW AND ANALYSIS**

Idaho Code section 63-3022(h) states, as part of the adjustments to arrive at Idaho taxable income,

In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid by the armed forces of the United States for services performed outside this state. The deduction is allowed only to the extent such income is included in taxable income. (Underlining added.)

Idaho Code section 63-3026A(d) states, as it relates to computing Idaho taxable income of part-year residents,

Compensation paid by the United States for active service in the armed forces of the United States, performed by an individual not domiciled in this state, shall not constitute income derived from or related to sources within this state.

Petitioners filed a part-year resident Idaho income tax return for tax year 2021. Petitioners reported on their return that they were both residents of Tennessee. Petitioners later clarified that [redacted] and their children were Idaho residents for all of 2021, and [redacted] became an Idaho resident upon retirement from military service on April 1, 2021. Petitioners reported all their income including the military income as Idaho source income. Petitioners then subtracted [redacted] military income to arrive at total adjusted income for the proration of the standard deduction or itemized deductions. Petitioners should have reported only their Idaho source income excluding the military income and then subtracted the military income from their federal adjusted gross income to arrive at total adjusted income for the proration. Petitioners did arrive at the correct Idaho taxable income, but because the military income was not supposed to be included as Idaho source income, Taxpayer Accounting did not allow the subtraction of military income from Idaho sourced income. The Tax Commission realized how Petitioners prepared their return and makes the necessary correction to arrive at the correct Idaho taxable income.

Petitioners claimed the child tax credit for their two dependent children. The maximum credit allowed is \$205 per qualifying child, subject to other limitations. See Idaho Code section 63-3029L. The credit Petitioners claimed was one and a half times larger than their allowable credit. The Tax Commission corrected Petitioners' child tax credit to the amount allowed by statute.

Petitioners also claimed the grocery credit on their 2021 return. The Tax Commission reviewed the amount claimed but could not figure out how Petitioners derived the amount claimed. Therefore, based on the information Petitioners provided, that [redacted] and the children were full

year residents and \_\_\_\_\_ was a resident for nine months, the Tax Commission corrected Petitioners' grocery credit.

### **CONCLUSION**

Petitioners filed a part-year resident return for tax year 2021. Petitioners claimed a subtraction for military income that was not Idaho source income but was included in Idaho adjusted gross income. Taxpayer Accounting corrected Petitioners' return on the basis that the military income was not part of Idaho adjusted gross income. Petitioners also claimed a child tax credit that was outside the range of the credit for the number of dependents reported on their return.

Upon review, the Tax Commission found that Petitioners included the military income as Idaho source income thus justifying the subtraction to arrive at total adjusted income. Therefore, the Tax Commission reverses Taxpayer Accounting's adjustment to include the military income.

Taxpayer Accounting also made an adjustment to the child tax credit. The Tax Commission reviewed that adjustment and hereby upholds the adjustment as being correct. In addition to the child tax credit, the Tax Commission recomputed Petitioners' grocery credit and adjusts it to the proper amount.

When Petitioners filed their 2021 return, an electronic funds transfer of the amount due was transmitted when their return was electronically filed. The next day, Petitioners made a second payment through the Tax Commission's Taxpayer Access Point (TAP). Petitioners paid double the amount of tax owed. The two payments were more than what Taxpayer Accounting determined with the addition of penalty and interest.

Taxpayer Accounting added a late payment penalty and interest. The late payment penalty was for four months of non-payment; however, interest was charged for only one day. The Tax Commission had full payment of Taxpayer Accounting's deficiency determination before the

deficiency was determined. It is inappropriate that Petitioners were charged four months late payment penalty when payment was received one day after their return was filed. At maximum Petitioners should have been assessed a one-month late payment penalty. See Idaho Code section 63-3046(c)(2) and IDAPA 35.02.01 Tax Commission Administration and Enforcement Rule 430.03. However, because the Tax Commission modified Taxpayer Accounting's deficiency and the resulting tax is minor, the penalty and interest are negligible and are hereby waived.

THEREFORE, the Notice of Deficiency Determination dated August 29, 2022, directed to  
is AFFIRMED as MODIFIED.

IT IS ORDERED that Petitioners pay the following tax:

| <u>YEAR</u> | <u>TAX</u>           | <u>TOTAL</u> |
|-------------|----------------------|--------------|
| 2021        | \$1,672              | \$1,672      |
|             | Less Return Payment  | 1,381        |
|             | Balance Owed         | 291          |
|             | Less Account Payment | 1,381        |
|             | Net Refund           | \$1,090      |

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 \_\_\_\_\_ 2022.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2022,  
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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