

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-139-652-608
	)	
Petitioners.	)	DECISION
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This case arises from a timely protest of a Notice of Refund Determination (Notice) issued to (Petitioners) for taxable year 2020. The Idaho State Tax Commission (Commission) after a review of the matter upholds the Notice issued to Petitioners for the reasons below.

There is no demand for payment; the Notice issued to Petitioners was for a reduction in a claimed refund.

**BACKGROUND**

The Income Tax Audit Bureau (Audit) found this matter began when Petitioners filed their initial Form 40, Idaho Individual Income Tax Return for tax year 2020 claiming Idaho taxable income of \$127,295. Audit found that Petitioners’ income was comprised of interest income, pensions, and annuities which resulted in them having a tax due of \$8,102. Audit found that Petitioners subsequently filed an amended Form 43, Part-year Resident and Nonresident Income Tax Return claiming nine months of residency. Audit reviewed Petitioners’ amended return when it was identified as having potential errors. Audit’s review of Petitioners’ return revealed that they zeroed out their Idaho adjusted gross income which also zeroed out their tax due. Audit adjusted Petitioners’ amended return and issued them a Notice. Audit’s adjustments prorated Petitioners’ income and deduction to account for their nine months of residency. Petitioners protested the Notice stating in part that, “we do not agree with this determination. I have attached an amendment

to the previously filed amended return and have provided a copy of my California return. I should receive a credit for paying taxes to another state on the same income. I should not have to pay taxes twice on the same income. As per California rules, part-year residents are taxed on all income while a resident and only on income from California sources while a nonresident.” Audit did not accept Petitioners’ second amended return where they claimed a credit for taxes paid in another state; however, Audit did accept Petitioners’ protest and transferred the matter to the Commission’s Tax Appeals Unit (Appeals) for an administrative review.

Appeals reviewed the matter and sent Petitioners a letter with two options for redetermining a protested Notice. Petitioners did not respond to the letter, nor did they provide any additional information. The Commission with no response from Petitioners decided the matter based upon the information available.

#### **LAW AND ANALYSIS**

Public Law 104-95 states in part that no state may levy income tax on the annuities of retired individuals who live in other states, but whose annuities are based on prior employment in the taxing state.

Idaho Code section 63-3026A(2) states for part-year resident individuals, trusts, or estates the term "Idaho taxable income" includes the total of: (a) Idaho taxable income as computed for a resident for the portion of the tax period which a taxpayer is domiciled in or is residing in Idaho, plus (b) those components of Idaho taxable income which are derived from or related to sources within Idaho for that portion of the tax period during which a taxpayer is not domiciled in and is not residing in Idaho.

Idaho Code section 63-3029 states in part that a resident individual shall be allowed a credit against the tax otherwise due for the amount of any income tax imposed on the individual for the

taxable year by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.

Idaho State Tax Commission Income Tax Administrative Rule 35.01.01.250 states that all income earned or received by an individual who resides in or is domiciled in Idaho is subject to Idaho income taxation without regard to the source of the income.

Petitioners initially filed a full year resident income tax return reporting their total income but subsequently amended that return by filing a part-year return in which they removed all their Idaho taxable income. In accordance with Idaho Codes and Rules, Petitioners had a filing requirement to report their total income for the nine months they resided in Idaho. The adjustments made to Petitioners' income was to prorate it for the nine months they resided in Idaho. In accordance with Public Law 104-95 the retirement income they received while in Idaho was not taxable by California. Petitioners are encouraged to file an amended return with California reporting only the income they received while they resided in that state. Petitioners are not eligible for a credit for taxes paid to another state because only the income Petitioners received while they resided in Idaho was taxed.

Petitioners are obligated to file an income tax return that divulged the financial information necessary for calculation of income tax. *Idaho State Tax Comm'n v. Beacon*, 131 Idaho 569, 961 P.2d 660 (Ct. App. 1998). In this matter Petitioners' amended return removed income that was subject to the state of Idaho for tax purposes.

### **CONCLUSION**

The Commission upholds the Notice issued to Petitioners which allocated nine months of their income to the state of Idaho. Petitioners were issued a redetermination letter providing them an opportunity to provide additional information, but they did not respond. The Commission

requires Petitioners to prove the amount asserted in the Notice is incorrect. Here, Petitioners did not respond to the Commission's communication, nor did they prove the Notice is incorrect.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2023,  
a copy of the within and foregoing DECISION was served by sending the same by United States  
Postal Service, postage prepaid, in an envelope addressed to:

Receipt No.

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