

PETITIONERS' POSITION

Petitioners filed a timely appeal and petition for redetermination of the Notice. Petitioners provided the following written statement:

I believe that I am entitled to that amount because I did my personal tax return on 3 different tax software programs and all three came up with the same amount for the state of Idaho. I ended up choosing H&R Block because there fees were less. I also had a tax expert look them over before submitting them and was told that everything looked correct. For part of the year I lived in Wyoming and worked in Idaho. From September to the end of the year, I moved to Idaho Falls and thus entitled to the benefits of a full time resident of the state of Idaho. [sic]

ANALYSIS

Based on the information available, Petitioners spent three full months in Idaho and had three qualifying children for the child tax credit. Therefore, Petitioners are entitled to a prorated child credit of \$17.08 for each qualifying child for each month Petitioners were domiciled in Idaho. (Three months multiplied by \$17.08 equals \$51.24). (Three qualifying children multiplied by \$51.24 equals \$153.72). The Tax Commission rounds to the nearest whole dollar.

Petitioners appealed contending they should receive a \$307 child tax credit. Petitioners did not cite any facts of law to support their position. Instead, Petitioners made a tax software defense, reliance on professional advice defense, and argue they are entitled to the benefits of a full-time resident.

Petitioners alleged three different tax software programs and a tax expert came up with \$307. Petitioners have not provided any evidence to support these claims. Even if three different tax software programs and a tax expert came up with \$307, this does not override the limitations set forth in Idaho Code section 63-3029L. Tax deductions and credits are matters of legislative grace and the taxpayer bears the burden of clearly showing the right to the claimed deduction and

credit. *INDOPCO, Inc. v. Comm’r*, 503 U.S. 79, 84 (1992); *Commodore Mining Co. v. Comm’r*, 111 F.2d 131, 133 (10th Cir. 1940).

Petitioners appear to argue that even though they were part-year residents of Idaho, the law entitles them to the benefits of a full-time resident. It is not entirely clear if Petitioners are trying to question the statute’s constitutionality. Regardless, the code is clear that part-year residents can only receive a prorated credit. The Tax Commission does not decide the constitutionality of matters, Idaho law must be followed as written. If the law is socially or economically unsound, the power to correct it is legislative, not within the powers of the Tax Commission. *John Hancock Mutual Life Insurance Co. v. Neill*, 79 Idaho 385, 405, 319 P.2d 195, 206 (1957).

THEREFORE, the Notice of Refund Determination dated July 29, 2022, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

Since the Tax Commission reduced Petitioners’ refund, no demand for payment is made or necessary.

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
mail, postage prepaid, in an envelope addressed to:

Receipt No.
