

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 ,) DOCKET NO. 1-684-994-048
)
 Petitioners.) DECISION
)
 _____)

The Intrastate Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to (Petitioners), for tax year 2018. Petitioners filed a timely appeal and petition for redetermination of the Notice. The Bureau reviewed additional information provided by Petitioners and modified the Notice. Petitioners did not respond to the modified Notice. The Tax Commission has reviewed the file and hereby issues its decision upholding the modified Notice.

BACKGROUND

Petitioners filed an Idaho Form 43 tax return for 2018 reporting zero income, stating was an Idaho resident for twelve months and was a resident for three months. On the return, Petitioners state 2018 state of residency was Washington. The Bureau sent a letter to Petitioners requesting they answer questions regarding how much income was made in Idaho and their residency status. Petitioners provided an estimate of Idaho derived income and out of state income with a written explanation of their residency status. The Bureau determined the estimated income to Idaho was fully taxable to Idaho, and 50% of Washington derived income was taxable under community property laws. The Bureau also allowed for additional child/dependent care deductions, grocery credits, and Idaho child tax credits.

Petitioners filed a timely protest of the Notice, stating the Bureau overstated Idaho income by a large margin, as he was only physically in Idaho for three months. The Bureau

responded by modifying the Notice to only include three months of _____ wages. However, half of _____ Washington wages are still taxable under community property. Petitioners did not respond to the modified Notice or correspondence over email with the Bureau. After no response from Petitioners to the modified Notice, the case was transferred to the Tax Commission's Appeals Unit (Appeals). A letter was sent to Petitioners explaining the redetermination process including their right to an informal hearing. Petitioners did not respond to the letter or phone calls. Therefore, the Tax Commission will decide this matter based on the information presently available.

LAW AND ANALYSIS

Both the state of Idaho and the state of Washington are community property states and both treat earnings as community property and therefore, community income. Under Idaho law, earnings of a spouse are presumed to be community property. Idaho Code section 32-906(1); *Martsch v. Martsch*, 103 Idaho 142, 645 P.2d 882 (1982). This is true even if the husband and wife are separated and living apart. *Suter v. Suter*, 97 Idaho 461, 546 P.2d 1169 (1976) *Desfosses v. Desfosses*, 120 Idaho 354, 815 P.2d 1094 (Ct. App. 1991). Thus, under Idaho law, only death or a legal divorce will disband the community. Petitioners appear not to be in disagreement with the application of community property law, but how much of _____ income was fully taxable to Idaho. According to the modified Notice, the Bureau complied with the request of Petitioners to reduce his taxable income to three months of his yearly wages.

CONCLUSION

On appeal, a deficiency determination issued by the Tax Commission "is presumed to be correct, and the burden is on the taxpayer to show that the Tax 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 Tax Commission requires Petitioners to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Petitioners have failed to do so. Therefore, the Tax Commission finds that the amounts shown are correct.

The Bureau added interest and penalty to Petitioners' tax deficiency. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the modified Notice dated December 30, 2021, and directed to _____, as MODIFIED by the Bureau, is APPROVED and MADE FINAL.

IT IS ORDERED that Petitioners pay the following tax, penalty, and interest computed to October 13, 2022.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2018	\$5,755	\$346	\$686	\$6,787
			Refund Held	(853)
			TOTAL DUE	<u>\$5,934</u>

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

An explanation of Petitioner's 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.
