

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 ,) DOCKET NO. 0-883-881-984
)
 Petitioners.) DECISION
)
 _____)

(Petitioners) protested the Notice of Deficiency Determination dated November 1, 2021. Petitioners disagreed that any tax was owed to Idaho. Petitioners stated they lived and worked in another state and should not have to pay tax to Idaho. The Tax Commission reviewed the information Petitioners provided and hereby issues its decision modifying the Notice of Deficiency Determination.

BACKGROUND

Petitioners filed an Idaho resident income tax return for 2020. Petitioners reported income but computed no tax and claimed a credit for taxes paid to another state. Petitioners did not provide a copy of the other state’s income tax return with their Idaho return.

During processing, Petitioners’ return was identified as a return with an error. Taxpayer Accounting reviewed Petitioners’ return, corrected it by computing the tax, and disallowed the credit for taxes paid to another state. Taxpayer Accounting sent Petitioners a Notice of Deficiency Determination showing tax owed to Idaho.

Petitioners protested stating they lived and worked in Virginia in 2020. Petitioners provided a copy of their Virginia income tax return showing the income reported to Virginia and the taxes paid. Petitioners also provided a copy of Mr. _____ employment contract showing he was based in Virginia for most of 2020.

Taxpayer Accounting modified the Notice of Deficiency Determination and asked Petitioners to withdraw their protest. Petitioners chose to continue their protest believing that they should not have to pay a tax to Idaho when they lived and worked in Virginia. Taxpayer Accounting acknowledged Petitioners' protest and referred the matter to the Tax Commission's Appeals Unit (Appeals).

Appeals sent Petitioners a letter describing the methods used for redetermining a protested Notice of Deficiency Determination. Petitioners contacted Appeals stating they would provide additional documentation and information, and then if needed they would schedule a hearing.

Petitioners provided documentation and other information showing they lived and worked outside of Idaho from November 13, 2018 to November 13, 2020. Petitioners stated Mr. actually worked outside of Idaho until January 26, 2021. Appeals asked Petitioners how often they returned to Idaho during this time. Petitioners stated they returned to Idaho for Christmas in 2019 but did not know the exact number of days they spent in Idaho. Petitioners stated to the best of their recollection they arrived in Idaho sometime around December 20, 2019 and left Idaho sometime around January 5, 2020. Petitioners stated this was the only time they came back to Idaho.

Appeals asked Petitioners to confirm the dates they were in Idaho, but Petitioners were unable to confirm them with any certainty. Therefore, the Tax Commission makes its decision based on the information available.

LAW AND ANALYSIS

Idaho Code section 63-3002 states the intent of the Idaho legislature regarding the Idaho income tax act; "to impose a tax on residents of this state measured by Idaho taxable income

wherever derived . . .” Petitioners filed a resident Idaho income tax return and stated that they were residents of Idaho. Petitioners stated they did not want to become residents of Virginia.

Idaho Code section 63-3013 defines a resident for Idaho income tax purposes. It also provides an exception or safe harbor for residents meeting certain conditions. Subparagraph (2) of section 63-3013 states that a resident individual shall not be considered a resident if he is absent from the state for 445 days in the first 15 consecutive months of his absence, and he does not maintain a permanent place of abode in Idaho where a spouse or dependent child resides for more than 60 days during any calendar year.

Petitioners provided documentation showing they were in Virginia for two years. Petitioners stated that both _____ lived in Virginia during the two years. Petitioners also stated they only returned to Idaho during the Christmas holiday in 2019. Petitioners were unsure of the number of days they spent in Idaho but believed it to be from December 20, 2019 to January 5, 2020.

Considering the information provided, Petitioners do not qualify for the safe harbor provision for residents temporarily living outside Idaho. Petitioners’ best recollection is that they arrived in Idaho sometime around December 20, 2019 and left Idaho sometime around January 5, 2020. Based on those dates, Petitioners were in Idaho for 16 days. Based on the date Petitioners were first outside Idaho, November 13, 2018, Petitioners could spend 12 days in Idaho and still qualify for the safe harbor provision. Since Petitioners were in Idaho for 16 days, they are outside the allowed time in Idaho for the safe harbor. Therefore, Petitioners were required to file a 2020 Idaho income tax return and report their Virginia income to Idaho.

Petitioners did provide a copy of the income tax return they filed with Virginia. Taxpayer Accounting reviewed that return and allowed Petitioners a credit for the taxes they paid to Virginia.

The Tax Commission reviewed the credit and agreed with the amount Taxpayer Accounting allowed.

When Petitioners filed their 2020 Idaho return, they did not claim the grocery credit. Generally, the grocery credit is allowed to all Idaho residents, barring the exceptions not applicable here. Taxpayer Accounting did not include the grocery credit in its correction of Petitioners' return. Regarding the grocery credit, the Tax Commission asked Petitioners if either were age 65 or older in 2020. Petitioners responded that they were not 65 or older in 2020. Since Petitioners were considered residents of Idaho in 2020, they are entitled to the grocery credit. Therefore, the Tax Commission allows the grocery credit to Petitioners.

CONCLUSION

Petitioners moved from Idaho for employment in 2018. Petitioners retained their Idaho residency and domicile while living and working in Virginia. Petitioners lived outside Idaho for more than 15 months. However, because Petitioners were in Idaho for more than 12 days in the first 15-months of their absence, Petitioners do not qualify for the safe harbor provision of Idaho Code section 63-3013 to not be considered a resident of Idaho. Therefore, as residents Petitioners are required to report their income from all sources to Idaho. However, Petitioners are entitled to receive a credit for the taxes they paid to Virginia, and they are entitled to the grocery credit. Taxpayer Accounting modified its determination to allow the credit for taxes paid to Virginia but did not allow the grocery credit. Therefore, the Tax Commission further modifies the Notice of Deficiency Determination to allow the grocery credit.

THEREFORE, the Tax Commission AFFIRMS as MODIFIED the Notice of Deficiency Determination dated November 1, 2021, directed to .

IT IS ORDERED that Petitioners pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2020	\$196	\$3	\$199.00
		LESS PAYM'T	(400.14)
		REFUND DUE	(201.14)

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.
