

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 15714
[Redacted]	)	
	)	DECISION
Petitioner.	)	
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On June 14, 2001, the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (petitioner), proposing additional income tax, penalty, and interest for the taxable year 1997 in the total amount of \$2,216. The petitioner filed a timely protest and petition for redetermination. The petitioner did not request a hearing or submit additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

Facts

The Tax Commission's Income Tax Audit Bureau (hereafter "ITA") obtained information that indicated the petitioner had Idaho source income from the sale of Idaho real property in 1997. ITA contacted the petitioner and requested that he provide the Tax Commission with a copy of his 1997 federal income tax return. The petitioner provided ITA with a copy of his 1997 federal income tax return. After reviewing the petitioner's federal return, ITA determined that the petitioner had an Idaho filing requirement and should have filed an Idaho nonresident income tax return for 1997. On June 14, 2001, ITA issued to the petitioner a Notice of Deficiency Determination.

ITA determined that the petitioner had an Idaho filing requirement since the amount of gross income derived from the sale of Idaho real property was in excess of \$2,500. The amount of gain reported by the petitioner on his federal Schedule D from the sale of a Triplex, located in [Redacted], Idaho, was \$67,427 (gross sale price of \$80,000 less basis of \$12,573). The Triplex

was purchased on August 1, 1986, and sold on January 1, 1997. The petitioner's Idaho taxable income was determined to be \$20,871 after taking into consideration the Idaho capital gains deduction, personal exemption and standard deduction.

On July 7, 2001, the petitioner filed his petition for redetermination. In the petition for redetermination, the petitioner stated, "I respectfully protest your determination of deficiency of \$2,216.00 due to the fact that the sale of the [Redacted] property was an installment sale that has since gone into default."

On December 21, 2001, the petitioner was sent a letter containing information regarding the petitioner's hearing rights. In response to the December 21, 2001, letter, the petitioner telephoned the Tax Commission and indicated that he was not going to contest the Notice of Deficiency Determination due to the filing of a Chapter 11 Bankruptcy.

#### Law and Analysis

"Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500)" is required to file an Idaho income tax return. Idaho Code section 63-3030(2).<sup>1</sup> "Income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from: . . . (ii) [t]he ownership or disposition of any interest in real or tangible personal property located in this state; . . . Idaho Code section 63-3026A(3). Therefore, the gain on the sale of the [Redacted], Idaho triplex is Idaho source income. Since the gain on the sale of the Idaho real property is greater than \$2,500, the petitioner was required to file an Idaho income tax return for the tax year 1997.

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<sup>1</sup> Unless otherwise indicated, Idaho Code references refer to the Idaho statute as it read in 1997.

Since the requirements of Idaho Code section 63-3022H were met, the petitioner was entitled to the Idaho capital gains deduction. Additionally, ITA allowed a deduction for the standard deduction and the exemption in accordance with Idaho Code section 63-3026A(4).

Finding

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Since the petitioner has not provided any documentation to dispute the findings contained in the Notice of Deficiency Determination dated June 14, 2001, the Tax Commission must affirm ITA's findings contained in the Notice of Deficiency Determination.

WHEREFORE, the Notice of Deficiency Determination dated June 14, 2001, is hereby APPROVED AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty, and interest (calculated through April 30, 2002):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$1,469	\$367	\$457	\$2,293

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

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2002, 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:

[REDACTED][REDACTED]

Receipt No. [Redacted]

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ADMINISTRATIVE ASSISTANT 1