

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

In the Matter of the Protest of	)	DOCKET NO. 16298
	)	
[REDACTED],	)	DECISION
	)	
Petitioner.	)	
_____	)	

On November 16, 2001, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 1996 in the total amount of \$4,486.

On January 18, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but did provide additional information and an Idaho income tax return for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) received information that showed the taxpayer sold real property in Idaho in 1996. The Bureau researched the Tax Commission's records and found the taxpayer did not file an Idaho individual income tax return for the taxable year 1996. Idaho Code section 63-3026A(3)(ii) states that income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from the ownership or disposition of any interest in real or tangible personal property located in Idaho.

The Bureau sent the taxpayer letters asking the taxpayer about the sale of the Idaho property and his requirement to file an Idaho income tax return. The taxpayer did not respond to the Bureau's letters. The Bureau determined the taxpayer was required to file an Idaho income tax return, so it prepared a return for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer stated he did not owe what the Bureau claimed. He stated he was over 65 years old and that the sale was not income to

him. Later, the taxpayer provided a copy of his federal income tax return and a copy of his California income tax return.

The Bureau reviewed the taxpayer's federal and California returns and did not find the sale of the property reported. The Bureau asked the taxpayer to explain how the sale was reported and asked the taxpayer to provide closing statements for the purchase and sale of the property. The taxpayer responded that there was a fire in the residence where his records were kept that destroyed his records. He provided a copy of a letter from the Building and Safety Division of [Redacted] County, California to verify the damage caused by the fire. The taxpayer stated he was still attempting to get the records elsewhere.

The Bureau gave the taxpayer additional time to get the documentation, but nothing came back from the taxpayer. The Bureau then referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter asking him for additional information and giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded to the Tax Commission's questions, which prompted the Tax Commission to ask for clarification to some of the taxpayer's responses. The taxpayer then requested forms and instructions for filing Idaho income tax returns and later provided the Tax Commission with a 1996 Idaho income tax return.

The Tax Commission reviewed the return and found it to be a better representation of the taxpayer's taxable income than the return the Bureau prepared. Therefore, the Tax Commission accepted the taxpayer's return, subject to the normal review processes of the Tax Commission, in lieu of the return prepared by the Bureau.

The Bureau added interest and penalty to the taxpayer's Idaho tax deficiency. The Tax Commission reviewed those additions and found they were properly added in accordance with

Idaho Code sections 63-3045 and 63-3046. Therefore, the Tax Commission upholds the addition of interest and penalty to the return submitted by the taxpayer.

WHEREFORE, the Notice of Deficiency Determination dated November 16, 2001, is hereby MODIFIED, in accordance with the provisions of this decision, and as so modified, is APPROVED, AFFIRMED and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>PENALTY</u>	<u>TOTAL</u>
1996	\$ 25	\$ 11	\$ 10	\$ 46

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

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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]

Receipt No. [Redacted]

[REDACTED]

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