

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16591
[Redacted] Petitioners.)	
)	DECISION
)	
)	
)	

On May 17, 2002, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing additional income tax, penalty, and interest for the taxable year 2000 in the total amount of \$280.

On May 23, 2002, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Tax Commission's hearing rights letter and have not provided anything further for consideration. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) reviewed the taxpayers' 2000 Idaho income tax return for the capital gains deduction claimed. The Bureau found that the taxpayers claimed a greater capital gains deduction than the amount of capital gains included in their federal adjusted gross income. The Bureau corrected the taxpayers' Idaho income tax return and sent the taxpayers a Notice of Deficiency Determination.

The taxpayers appealed the Bureau's determination stating that according to Idaho's own instructions, capital gains are recognized on Idaho income only. The taxpayers stated they had \$10,801 in capital gains of which 60% is eligible for the Idaho capital gains deduction. The taxpayers stated the Bureau needed to follow the instructions and not include federal capital gains, which are not pertinent to the Idaho return.

The Tax Commission sent the taxpayers a letter explaining the Bureau's adjustment, explaining the instructions to the Idaho capital gains form, and giving them two options for

having the Notice of Deficiency Determination redetermined. The taxpayers did not respond. Therefore, the Tax Commission decided the matter based upon the information currently available.

During 2000, the taxpayers received payments on installment sales. The taxpayers calculated the gain on the sales and reported it on federal form Schedule D. The taxpayers also had short-term capital losses and other long-term capital gains. The taxpayers had a net capital gain of \$3,148, which was carried to the taxpayers' federal form 1040 and became part of federal adjusted gross income.

Idaho Code section 63-3022H provides for a deduction from Idaho income of 60% of the net capital gain, on the sale of certain qualified property, used in determining taxable income. The taxpayers' net capital gain used in determining taxable income was \$3,148.

The taxpayers completed the Idaho capital gains deduction form showing a total qualifying capital gain of \$10,801. The taxpayers then multiplied the gain by 60% to arrive at an Idaho deduction of \$6,481. The next step was to enter the net capital gain that was included in income. The taxpayers entered \$6,481. However, that amount was the incorrect amount. The correct amount comes from the taxpayers' federal form 1040, line 13 – Capital gain or (loss).

In the computation of the net capital gain included in taxable income, the \$10,801 was added to other long-term capital gains for a total of \$26,164 of long-term capital gain. However, the taxpayers also had short-term capital losses in the amount of \$23,016. The Internal Revenue Code provides for the netting of short-term capital losses with short-term capital gains resulting in a net short-term capital gain or loss. It allows the same for long-term capital losses and long-term capital gains. Once the net short-term and net long-term capital gains or losses are

determined, the Internal Revenue Code provides for a netting of the short-term and long-term capital gains and capital losses.

The taxpayers did have qualifying Idaho capital gains of \$10,801, which would have given them an Idaho capital gains deduction of \$6,481. However, the Idaho code limits the Idaho capital gains deduction to the amount of gain from all property included in federal taxable income. Therefore, when the taxpayers offset their short-term capital losses with their long-term capital gains, they limited the Idaho capital gains deduction to the amount of gain included in taxable income. The deduction was limited to \$3,148.

The Bureau's adjustment reduced the taxpayers' Idaho capital gain deduction to the amount included in taxable income. The Tax Commission found that adjustment to be correct and therefore upholds the Bureau's determination.

The Bureau added interest to the taxpayers' tax deficiency. The Tax Commission reviewed that addition and found it appropriate and in accordance with Idaho Code section 63-3045.

WHEREFORE, the Notice of Deficiency Determination dated May 17, 2002, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$ 255	\$ 33	\$ 288

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

An explanation of the taxpayers' 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 I have on this _____ day of _____, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]