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On May 6, 2002, 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 1997 in the total amount of \$8,430.

On June 21, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing, but she did provide statements 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 showing the taxpayer sold real property in Idaho in 1997. 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 1997. 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 her requirement to file an Idaho income tax return. The taxpayer responded questioning Idaho's right to her personal information. The Bureau sent the taxpayer further correspondence but received no response from the taxpayer. The Bureau determined the taxpayer was required to file an Idaho income tax return, so it prepared a return for the taxpayer and sent her a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer provided documents stating the Bureau's Notice of Deficiency Determination was only "CONDITIONALLY ACCEPTED." The documents included 28 conditions upon which, if satisfied, the taxpayer might accept the Notice of Deficiency Determination. The taxpayer also provided an affidavit in support

of the conditional acceptance. The affidavit contained 33 statements regarding the taxpayer's lack of knowledge of the presentment made upon her by the state of Idaho.

The Tax Commission sent the taxpayer a letter giving her two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded by sending multiple copies of a Notice of Dishonor attached to the same documentation previously sent to the Bureau. The taxpayer did not provide anything further, so the Tax Commission decided the matter based upon the information available.

The taxpayer owned property in Idaho. In 1997, the taxpayer sold the Idaho property. Therefore, if the taxpayer realized a gain on the sale, the gain is considered Idaho source income. Idaho Code section 63-3026A(3)(ii). If the sale proceeds were in excess of the filing requirement provided for in Idaho Code section 63-3030, the taxpayer was required to file an Idaho income tax return.

The information available shows the taxpayer sold the Idaho property for \$75,000. Presumably, the taxpayer had basis in the property, but that basis was not disclosed. In fact, the taxpayer has provided nothing in regards to the property sale. The only information the Tax Commission has is that the gross proceeds from the sale were \$75,000. The Bureau used this figure as the taxpayer's adjusted gross income for Idaho. Since the taxpayer has provided nothing to show this amount is incorrect, the Tax Commission upholds this figure as the taxpayer's adjusted gross income. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984).

The documents the taxpayer did submit to the Tax Commission have the common language and tone of tax protestor movements. The taxpayer's basic theme was that she was not in a debtor/creditor relationship with the state of Idaho as provided in the Uniform Commercial

Code (UCC). The Tax Commission finds no merit to this position. Idaho Code section 28-1-102 sets out the purpose of the UCC. It states in pertinent part:

- Purposes - Rules of construction - Variation by Agreement. - (1)  
This act shall be liberally construed and applied to promote its underlying purposes and policies.
- (2) Underlying purposes and policies of this act are
- (a) to simplify, clarify and modernize the law governing commercial transactions;
  - (b) to permit the continued expansion of commercial practices through custom, usage and agreement of the parties;
  - (c) to make uniform the law among the various jurisdictions. (Emphasis added.)

The Uniform Commercial Code applies only to commercial transactions, it has no bearing on a determination of tax matters. Therefore, the Tax Commission finds the need for a contractual relationship between the taxpayer and the state of Idaho inapplicable to the matter at hand.

The taxpayer failed to provide anything to show the return the Bureau prepared was incorrect. The taxpayer has not met her burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, Id. Therefore, the Tax Commission upholds the Bureau's determination.

WHEREFORE, the Notice of Deficiency Determination dated May 6, 2002, is hereby 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>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$5,350	\$1,338	\$1,977	\$8,665

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

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

DATED this \_\_\_ day of \_\_\_\_\_, 2003.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_ day of \_\_\_\_\_, 2003 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] \_\_\_\_\_