

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 16767
[REDACTED]	)	
	)	DECISION
Petitioner.	)	
_____	)	

On May 30, 2002, the staff of the Income Tax Audit Bureau (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 \$10,316.

On July 23, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Bureau received information showing 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.

A protest to the Bureau's determination was filed on behalf of the taxpayer. The letter stated the taxpayer had suffered debilitating injuries in an accident that left him a quadriplegic. Therefore, the author of the letter was assisting him with the matter. The representative said he was having difficulty locating the taxpayer's financial records. He offered that the taxpayer might have some tax due but said the Bureau had failed to take his basis in the property into consideration and did it consider the cost of improving the property prior to the sale. He asked for and was granted additional time to locate records and determine the facts. After a period of time without receiving any additional information, the taxpayer's file was transferred to the Legal/Tax Policy Division for review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. The Tax Commission sent two additional follow-up letters to the taxpayer; he still failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

The facts show and the taxpayer does not dispute that there was a sale of property in Idaho. 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 gain is in excess of the filing requirement provided for in Idaho Code section 63-3030, the taxpayer is required to file an Idaho income tax return.

The information available shows the taxpayer sold the Idaho property for \$85,000. Presumably, the taxpayer had basis in the property but that basis was not disclosed. The taxpayer provided no information or documentation that would substantiate a loss or a gain on the sale. The only information the Tax Commission has regarding the sale is that the gross proceeds from the sale were \$85,000. 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 Bureau added interest and penalty to the taxpayer's return per Idaho Code sections 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them proper and in accordance with the Idaho Code.

WHEREFORE, the Notice of Deficiency Determination dated May 30, 2002, 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>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$6,190	\$ 1,548	\$ 2,813	\$10,551

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] \_\_\_\_\_