

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 17110
[Redacted])
) DECISION
)
Petitioners.)
_____)

On November 27, 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 income tax, penalty, and interest for the taxable year 1999 in the total amount of \$3,053.

On January 17, 2003, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather submitted additional information 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 taxpayers sold real property in Idaho in 1999. The Bureau researched the Tax Commission's records and found the taxpayers did not file an Idaho individual income tax return for the taxable year 1999. 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 taxpayers a letter asking them about the sale of the Idaho property and their requirement to file an Idaho income tax return. The taxpayers responded with a copy of their federal income tax return and a statement that the gain shown on their [Redacted] return was the result of an adjusted basis due to depreciation over the 17 years that they owned the property. The Bureau reviewed the taxpayers' federal return and prepared an Idaho income tax return for the

taxpayers. The Bureau then sent the taxpayers a Notice of Deficiency Determination, which the taxpayers protested.

The Tax Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. The taxpayers chose to rely upon the information they provided in their protest letter and the subsequent documentation they provided.

The taxpayers stated they were never informed that they needed to report the sale of the property to the state of Idaho. They stated there was nothing in the escrow process or documentation that told them of their requirement to file an Idaho return. The taxpayers stated they were and still are [Redacted] residents and that the sale was reported on their [Redacted] income tax return. The taxpayers provided a copy of their [Redacted] return to show the sale was reported to [Redacted]. The taxpayers stated that the Bureau should have given them credit for the tax they paid to [Redacted]. They stated they are being double taxed. The taxpayers also protested the length of time it took for the Tax Commission to notify them of their requirement to file an Idaho income tax return.

The Idaho Code is clear in section 63-3026A(3)(ii) that income resulting from the disposition of real property in Idaho is Idaho source income. Idaho Code section 63-3030 sets the filing requirement thresholds for individuals having Idaho source income. The threshold for nonresident individuals for tax year 1999 was \$2,500. Therefore, if the taxpayers realized a gain from the sale of the Idaho property in excess of \$2,500, they were required to file an Idaho income tax return.

The information available shows the taxpayers sold their Idaho property for \$68,000 and had a gain on the sale of \$47,285. These amounts exceed the filing requirements of Idaho Code section 63-3030; therefore, the taxpayers were required to file an Idaho income tax return. The

return the Bureau prepared for the taxpayers started with the gain on the sale (Idaho source income), subtracted the Idaho capital gains deduction (the property was held over 18 months) and the rental loss on the property, and prorated the taxpayers' standard deduction and exemptions (Idaho Code section 63-3026A). The Tax Commission found the computation correct and in accordance with the Idaho Code.

The taxpayers argued that the Bureau did not give them credit for taxes paid to [Redacted] on the sale of the property. However, Idaho Code section 63-3029 states in pertinent part,

A resident individual shall be allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on the individual, . . . for the taxable year by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.

Therefore, for Idaho to give the taxpayers a credit for taxes paid to [Redacted], the taxpayers must be domiciled in or residents of Idaho. Generally, the credit the taxpayers seek is granted by the taxpayer's state of residence or domicile. Since the taxpayers were residents and domiciled in [Redacted], the credit should be claimed on their [Redacted] return.

The taxpayers stated they were not told that they were required to report the sale to Idaho; therefore, they only filed and reported the sale on their [Redacted] return. The taxpayers stated neither their accountant nor their Idaho realtor made any mention that they were required to file a return with Idaho. In addition, the taxpayers stated the Tax Commission failed to notify them in a timely manner that tax was owed to Idaho.

The responsibility for filing Idaho income tax returns is the taxpayer's. Each taxpayer has the responsibility to become familiar with the taxing schemes of the states where he has taxable

activities. In this case, the taxpayers' accountant should have known the sale of property in another state generally requires the filing of an income tax return.

In fulfilling its charge and duties (Idaho Code section 63-105), the Tax Commission makes every effort to review and analyze all the information it receives in a timely manner. Ideally, the Tax Commission would like to notify taxpayers of any tax deficiency shortly after the end of the filing season. However, with the volume of information, the timing of receiving the information, the available technology, and the available staff, it is just not possible.

The Tax Commission found the return the Bureau prepared to be an accurate representation of the taxpayers Idaho taxable income. Therefore, the Tax Commission upholds the Bureau's determination.

WHEREFORE, the Notice of Deficiency Determination dated November 27, 2002, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$2,088	\$ 522	\$ 480	\$3,090

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 _____, 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] _____