

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17240
[Redacted])	
)	DECISION
Petitioner.)	
_____)	

On January 22, 2003, 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 1998 in the total amount of \$21,219.

On July 23, 2002, the taxpayer's daughter filed a timely appeal and petition for redetermination on behalf of the taxpayer. Neither the taxpayer nor her daughter responded to additional letters including a letter advising the taxpayer of her appeal rights. The taxpayer has submitted nothing 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 during 1998. The Bureau researched the Tax Commission's records and found the taxpayer did not file a 1998 Idaho individual income tax return. 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 Idaho income tax return. The taxpayer did not respond to the Bureau's letters. The Bureau determined the taxpayer, although a resident of [Redacted], was required to file an Idaho income tax return. For that reason, the Bureau prepared a return for the taxpayer using the gross proceeds of the

sale as the net taxable income and sent her a Notice of Deficiency Determination. She was allowed the standard deduction and one personal exemption.

In response to the determination, the taxpayer's daughter telephoned the Bureau to explain that the Idaho real property that was sold during 1998 was vacant agricultural land that the taxpayer and two of her siblings had inherited. At the conclusion of the conversation, the taxpayer's daughter faxed a protest to the Bureau on behalf of her mother.

The letter stated the taxpayer suffers from terminal cancer and is now living in an assisted living facility. The taxpayer received the money from the sale of the Idaho property and paid income taxes to the state of [Redacted] in 1998. Shortly after receiving the money, the taxpayer became ill and used the proceeds from the sale to pay medical bills.

The taxpayer's daughter said in closing:

We would be happy to assist in ensuring the taxes paid go to the correct taxing entity by sending you a copy of her 1998 [Redacted] and U.S. income tax and applying for a refund from the State of [Redacted]. However, we would greatly appreciate your assistance in waiving any penalty and interest payments as [Redacted] simply cannot afford it. Please let me know what we can do to assist the State of Idaho in recouping its taxes and clearing up this matter.

Upon receipt of the protest, the Bureau sent the taxpayer a letter and a Power of Attorney form to allow the Bureau to work with the taxpayer's daughter to resolve the matter. However, no response was received and a second letter was sent. After a period of time without receiving a response or 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 in care of her daughter offering her two options for having the Notice of Deficiency Determination redetermined. A Power of Attorney form was included together with a request to complete the form and return it to the Tax

Commission. No one responded to the request. The Tax Commission sent two additional follow-up letters to the taxpayer; she still failed to respond. [Redacted] Having received no further information from the taxpayer, the Tax Commission decides this matter based upon the information in the file.

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.

Available information shows the Idaho property sold for \$177,778. 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.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of her argument, the taxpayer has failed to meet her burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

[Redacted] records show the taxpayer reported and paid federal taxes on adjusted gross income of \$145,436. Therefore, the Tax Commission upholds this figure as the taxpayer's adjusted gross income.

The Bureau added interest and penalty to the taxpayer's return per Idaho Code §§ 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them proper and in accordance with the Idaho Code. Both amounts are reduced as the result of a reduction in the tax

amount. Further adjustment to the amounts would require cooperation and a compromise and closing agreement with the taxpayer.

WHEREFORE, the Notice of Deficiency Determination dated January 22, 2003, is hereby MODIFIED 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 for 1998:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$11,107	\$2,777	\$3,748	\$17,632

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 _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, 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]