

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18193
[Redacted])	
)	DECISION
Petitioner.)	
_____)	

On June 23, 2004, 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 1999 in the total amount of \$63,942.

The taxpayer filed a timely appeal and petition for redetermination. He did not request a conference or provide information 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 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 researched the Tax Commission's records and found the taxpayer did not file an Idaho individual income tax return to report the income resulting from the sale.

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. Therefore, the Bureau prepared a return for the taxpayer and sent him a Notice of Deficiency Determination.

Upon receipt of the letter, the taxpayer's wife telephoned the Bureau, and the taxpayer sent a letter protesting the Bureau's determination. The letter stated the taxpayer would not be back in [Redacted] where his records are kept until November 1. He said he would locate the documentation at that time. He added that he had called the Tax Commission when the property was sold and was told he had no responsibility to file with Idaho.

The taxpayer's wife telephoned the Bureau again on August 25, 2004, to say she was sending the closing statements of the disposition/acquisition. She asked the Bureau to telephone her if the information was not adequate to resolve the matter. The promised information did not arrive. The taxpayer's wife called again on October 2, 2004, to say she was afraid her home in [Redacted] was destroyed by the hurricane. She said she would send what she had for now. However, nothing ever arrived.

Since that time, the taxpayer's wife has called several times to discuss the information she was planning to send and to advise the Bureau that they have suffered because of the continued hurricanes. After granting numerous delays without receiving any information, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. In response, the taxpayer's wife called the Tax Commission on September 13, 2005. She said they are still suffering the effects of the hurricanes two years ago. She said she would have the information to the Tax Commission by the end of October. On November 3, 2005, she called again to say she would have the information by the end of November. Efforts to reach the taxpayer by telephone since that time have been unsuccessful. To date, no documentation of any sort has been provided by the taxpayer or his wife.

The facts show the taxpayer does not dispute he sold property in Idaho in 1999. 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 \$515,000. 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 \$515,000. 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 June 23, 2004, 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>
1999	\$41,409	\$ 10,352	\$ 12,609	\$64,370

Interest is computed through February 15, 2006.

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 _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2006, 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]
