

regarding the inclusion of all of the gain from the disposition of the Idaho real property. Idaho Code § 63-3026A stated in pertinent part:

For purposes of subsections (1) and (2) of this section:

(a) Income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from:

* * *

(ii) The ownership or disposition of any interest in real or tangible personal property located in this state;

The petitioner contends that the basis used to compute the gain should be the cost of the Idaho property as opposed to being the federal basis which reflected, in part, gain from the holding of the property in Washington. The petitioner contends only that the use of the federal basis would not be “fair or reasonable.” She offered no authority to support her position.

Idaho Code § 63-3002 sets out the declaration of intent for the Idaho income tax. It states:

Declaration of intent. -- It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. All of the foregoing is subject to modifications in Idaho law including, without limitation, modifications applicable to unitary groups of corporations, which include corporations incorporated outside the United States. (Underlining added.)

It is clear that the income resulted from “[t]he ownership or disposition of any interest in real or tangible personal property located in this state. The declaration of intent specifically adopts the federal rules for “basis.” Nothing in Idaho Code § 63-3026A provides for a partition of the gain under the circumstances present in this docket. Idaho Code § 63-3002 states that the amount reported to Idaho should be the same as the amount reported to the federal government, “subject only to modifications contained in the Idaho law.” No such *modification* has been cited by the petitioner. Accordingly, the Commission finds that the entire gain is includable in the computation of Idaho taxable income as asserted by the auditor.

WHEREFORE, the Notice of Deficiency Determination dated June 13, 2008, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax and interest (computed to February 15, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$4,490	\$849	\$5,339

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

An explanation of the petitioner’s right to appeal this decision is enclosed.

DATED this ____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2008, 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]

Receipt No.
