

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20910
[Redacted])	
)	DECISION
Petitioner.)	
_____)	

On November 28, 2007, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for taxable year 2002 in the total amount of \$6,013.

On January 30, 2008, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to provide 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 taxpayer sold property located in Idaho in 2002. The Bureau researched the Tax Commission’s records and found that the taxpayer did not file a 2002 Idaho individual income tax return. The Bureau sent the taxpayer letters asking about his requirement to file an Idaho income tax return. The taxpayer responded that the property was inherited. The Bureau asked the taxpayer to provide documentation to establish his basis in the property, but nothing was ever provided.

The Bureau determined the taxpayer was required to file an Idaho income tax return. Therefore, the Bureau prepared a return for the taxpayer and sent him a Notice of Deficiency Determination citing Idaho Code section 63-3026A. The taxpayer protested the Bureau’s determination stating again that the property was inherited and, as a result, no tax is owed on the

sale. The taxpayer provided the Tax Commission with a power of attorney and stated that his representative would dispute the validity of the Bureau's claimed deficiency.

The Bureau referred the matter for administrative review, and the Tax Commission sent the taxpayer's representative a letter discussing the methods available for redetermining a protested Notice of Deficiency Determination. The representative contacted the Tax Commission and asked what information the Tax Commission needed to resolve the matter. The Tax Commission informed the representative that the taxpayer needed to provide information to establish his basis in the property sold. The representative stated the taxpayer had information on the value of the property when he inherited it but would need about thirty (30) days to get that information to the Tax Commission.

The Tax Commission allowed the taxpayer the time requested and a lot more. After not receiving anything from the taxpayer or his representative for several months, the Tax Commission contacted the representative and left a message to contact the Tax Commission. The Tax Commission was never contacted nor were any documents provided. Therefore, the Tax Commission decided the matter based upon the information available.

Idaho Code section 63-3026A states in part 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 property located in Idaho. Idaho Code section 63-3030 states in part that any nonresident individual having a gross income from Idaho sources in excess of \$2,500 for the taxable year is required to file an Idaho individual income tax return.

The taxpayer was reported as having sold property located in Idaho. The selling price of the property was \$61,000. The taxpayer did not provide any information or documentation that

established his basis in the property, so it is unknown how much of a gain or loss the taxpayer realized on the sale of the property. Nonetheless, it is known that the taxpayer received \$61,000 on the sale of the property. This is well in excess of the filing threshold for nonresident individuals. Therefore, the Tax Commission finds the taxpayer did have a filing requirement with the state of Idaho.

The taxpayer stated the property was inherited and that no tax was owed on the sale. However, the taxpayer did not provide anything to show his basis on the date he inherited the property, and therefore, no determination of gain or loss on the sale of the property.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer did not meet his burden. Nevertheless, the Tax Commission recognizes the Bureau's determination was not totally accurate. The Bureau's determination was based on the facts that the taxpayer was single and had no other income than the sale of the Idaho property. This likely was not the case. However, when the Bureau looked into the taxpayer's federal filing for 2002, it found that the taxpayer failed to file a federal income tax return. Therefore, the Tax Commission finds that the return prepared by the Bureau was based on the best available information, and hereby upholds the Bureau's determination of the taxpayer's Idaho taxable income.

The Bureau added interest and penalty to the taxpayer's Idaho tax liability. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated November 28, 2007, is hereby 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>
2002	\$3,893	\$ 973	\$1,649	\$6,515

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.

DATED this _____ day of _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2010, 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.
