

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22083
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On May 20, 2009, the staff of the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing income tax, penalty, and interest for taxable year 2004 in the total amount of \$12,252.

The taxpayers filed a timely appeal and petition for redetermination. The Commission, having reviewed the file, hereby issues its decision.

The Bureau received information showing the taxpayers sold real property in Idaho in 2004. 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 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 taxpayers several letters asking them about the sale of the Idaho property and their requirement to file an Idaho income tax return. The taxpayers did not respond to the Bureau's letters. Therefore, the Bureau prepared a return for the taxpayers and sent them an NODD.

Upon receipt of the NODD, the taxpayers sent a letter stating that they did not file an Idaho return for two reasons. First, the taxpayers stated that, at the time of the property sale, they were

stationed at [Redacted] and, according to the military, were [Redacted] residents. The second reason stated in the letter was that there was no profit to claim on the sale because the property was sold at a loss. The taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review.

On January 27, 2010, the Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. In response, the taxpayers requested an informal hearing by telephone after March 27, 2010, and stated that, prior to the hearing, a copy of the closing statement and purchase agreement would be provided. Several subsequent requests for the information have been sent, but to date, no documentation of any sort has been provided by the taxpayers.

The taxpayers do not deny they sold Idaho property in 2004. Clearly, Idaho Code § 63-3026A includes income from the sale of Idaho real estate as Idaho taxable income. The information available to the Commission shows the taxpayers sold the Idaho property for \$132,500. Presumably, the taxpayers had basis in the property, but that basis was not disclosed. The taxpayers provided no information or documentation that would substantiate a loss or a gain on the sale. The only information the Commission has regarding the sale is that the gross proceeds from the sale were \$132,500. The Bureau used this figure as the taxpayers' adjusted gross income for Idaho. Since the taxpayer has provided nothing to show this amount is incorrect, the Commission is left with little choice in determining the taxpayers' Idaho income for 2004. 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 taxpayers' return per Idaho Code §§ 63-3045 and 63-3046. The Commission reviewed those additions and found them proper and in accordance with the Idaho Code.

WHEREFORE, the Notice of Deficiency Determination dated May 20, 2009, is 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>
2004	\$8,051	\$ 2,013	\$2,714	\$12,778

Interest is computed through November 19, 2010.

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.

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.
