

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22547
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (taxpayer) protested the Notice of Deficiency Determination dated September 23, 2009, asserting income tax, penalty, and interest in the total amount of \$10,210 for taxable year 2004. The taxpayer disagreed with the computation of the gain on the sale of Idaho property that he sold in 2004. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Income Tax Audit Bureau (Bureau) received information that showed the taxpayer sold real property located in Idaho in 2004. The Bureau researched the Tax Commission's records and found the taxpayer did not file an Idaho individual income tax return for that year. 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 him about the sale of the Idaho property and his requirement to file Idaho income tax returns. The taxpayer did not respond. The Bureau determined the taxpayer was required to file an Idaho income tax return, so the Bureau prepared a return for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination and provided a copy of his seller's estimated settlement statement. The Bureau reviewed the statement and made some minor

adjustments to its gain computation. The Bureau sent the taxpayer a modified determination and a letter stating the taxpayer would need to provide a copy of his [Redacted] income tax return for 2004 or a copy of the purchase agreement to establish any further basis in the property sold. The taxpayer stated he would have to request the information [Redacted]. The Bureau allowed the taxpayer additional time, but never received anything further from the taxpayer. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Shortly after mailing that letter, the Tax Commission received a faxed copy of the taxpayer's buyer's final closing statement via the Bureau. The taxpayer contacted the Tax Commission and asked if it had received the documentation. The Tax Commission stated the documentation had been received and that the gain would be recalculated based upon that information. Therefore, the Tax Commission based its decision on the information provided.

FINDINGS

In 2004, the taxpayer sold property in Idaho with a sales price of \$105,600. This information was provided via a 1099S informational return and was confirmed by the seller's estimated settlement statement. The taxpayer documented the purchase price of the property at \$71,019 by his buyer's closing statement. The taxpayer also provided documentation showing his closing costs on the sale of the property of \$5,410. The resulting gain from the sale of the property was \$29,171. This gain is in excess of the filing requirements of Idaho Code section 63-3030 for nonresidents; therefore, the taxpayer was required to file a 2004 Idaho income tax return.

In addition to determining the taxpayer's basis in the property, the information the taxpayer provided shows the taxpayer held the property for over two years. As such, the property qualifies for the Idaho capital gains deduction. See Idaho Code section 63-3022H. Therefore, the Tax Commission included the Idaho capital gains deduction in its redetermination of the taxpayer's Idaho tax liability.

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

WHEREFORE, the Notice of Deficiency Determination dated September 23, 2009, is hereby MODIFIED, in accordance with the provisions of this decision 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:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2004	\$68	\$17	\$24	\$109

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 _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2011, 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.
