

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23002
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (taxpayer) protested the Notice of Deficiency Determination dated April 8, 2010, asserting income tax, penalty, and interest in the total amount of \$10,362 for taxable year 2005. The taxpayer disagreed with the computation of the gain on the sale of Idaho property. 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 in Idaho in 2005. The Bureau researched the Tax Commission's records and found the taxpayer did not file an Idaho individual income tax return for taxable year 2005. The Bureau sent the taxpayer letters asking about the sale of the Idaho property and his requirement to file an Idaho income tax return. The taxpayer contacted the Bureau and stated that the property was owned jointly with his ex-wife. He was concerned that he would be taxed on the full gain and stated he needed to gather the information together on the purchase and sale of the property.

The taxpayer did not provide any information to the Bureau, so the Bureau reviewed the available information, determined the taxpayer was required to file an Idaho income tax return, prepared a return for the taxpayer, and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination stating that the Bureau did not consider his basis and other deductions. The taxpayer provided documentation showing his basis and closing costs. The taxpayer also stated that a utility building was placed on the property and he provided a

cost for the building. The taxpayer stated that since he was a resident [Redacted], he did not know about Idaho's filing requirements or that he was required to report the sale to Idaho. The Bureau reviewed the information, modified its determination, and sent the taxpayer a revised audit report. The taxpayer did not respond to the Bureau's modified report, so the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

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. Idaho Code section 63-3030 sets the filing requirement thresholds for individuals having Idaho source income. The threshold for nonresident individuals for taxable year 2005 was \$2,500. Therefore, if the taxpayer realized a gain from the sale of the Idaho property in excess of \$2,500, he was required to file an Idaho income tax return.

The information available shows the taxpayer sold Idaho property for \$100,000. The taxpayer documented his basis in the property, including selling costs, at \$48,699. Therefore, the taxpayer realized a gain on the sale of the property in the amount of \$51,301. The taxpayer's gain was in excess of the filing requirement for nonresidents, so he was required to file a 2005 Idaho income tax return.

The Bureau's initial determination was based on the sales price of the property. The Bureau's revised determination accounted for the taxpayers' documented basis and split the gain

for the taxpayer's ex-wife share. The Bureau also obtained information [Redacted] and prorated the taxpayer's personal exemption and standard deduction in accordance with Idaho Code section 63-3026A.

The Tax Commission's review of the matter found the Bureau's determination of the taxpayer's gain off by \$194. Although this is a minor amount, the Tax Commission adjusted the gain computation. The Tax Commission also found that the taxpayer held the Idaho property for approximately four and one-half years prior to its sale. This being the case, the property qualified for the Idaho capital gains deduction. (Idaho Code section 63-3022H.) The Bureau did not include this deduction in its calculation of Idaho taxable income.

CONCLUSION

The taxpayer was required to file an Idaho income tax return for taxable year 2005. The Bureau's revised determination of the taxpayer's gain on the sale of the Idaho property was fairly accurate; however, the Bureau failed to recognize the property sold as qualifying property for the Idaho capital gains deduction. Therefore, the Tax Commission upholds the Bureau's revised determination modified to include the aforementioned correction and deduction.

THEREFORE, the Notice of Deficiency Determination dated April 8, 2010, and directed to [Redacted] is AFFIRMED AS MODIFIED by this decision.

IT IS ORDERED 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>
2005	\$297	\$74	\$92	\$463

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.