

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 23004
[Redacted],)
)
)
) Petitioner.) DECISION
)
_____)

[Redacted] (taxpayers) protested the Notice of Deficiency Determination issued by the staff of the Idaho State Tax Commission (Commission) dated May 28, 2010, asserting additional Idaho income tax, penalty, and interest for taxable year 2006 in the total amount of \$8,298.

The issue in this docket is whether the taxpayers obtained ownership of and disposed of an interest in real property in Idaho such that they had Idaho taxable income for taxable year 2006.

BACKGROUND FACTS

A Form 1099-S was issued showing \$91,500 paid to [Redacted] during taxable year 2006. The Form 1099-S shows First American Title Co. as the payer and references “[Redacted].” The [Redacted] County Assessor provided a copy of a quitclaim deed dated September 25, 2006, conveying the [Redacted]. The [Redacted] County Assessor also provided a copy of a warranty deed dated September 28, 2006, conveying the [Redacted]. The warranty deed is signed by the taxpayers.

Mr. [Redacted] insists that he never owned this Idaho property. In a letter from Mr. [Redacted] dated March 27, 2010, he states that the property “was owned by a [Redacted].” In a letter from Mr. [Redacted] dated June 10, 2010, he stated, “I not only wasn’t on any mortgage, title, or ownership of these parcels, but never received any 1099 from any sale of this property. No Title company can prove that I owned it at any time since it wasn’t in my name.” Then, in a letter from Mr. [Redacted] dated July 19, 2010, he references loaning \$125,000 “of funds to [Redacted] which

far exceeds the amount I received from your noticed transaction.”

LAW AND ANALYSIS

Gain on the sale of real property located in Idaho is Idaho taxable income. Idaho Code § 63-3026A(3)(a)(ii) states:

(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 available facts show that Mr. [Redacted] received income from real property located in Idaho. The Form 1099, the quitclaim deed, and the warranty deed available show Mr. [Redacted] owning and disposing of real property in Idaho and receiving a \$91,500 payment from the transaction. No evidence has been provided to show otherwise. Mr. [Redacted] has made assertions that he did not receive this income but has failed to provide any documentation or evidence to prove that he did not receive this income. Further, he has not provided any documentation that would establish a cost basis in the property which would limit the amount of taxable gain from the transaction. Therefore, this decision is issued treating the full \$91,500 as taxable gain.

CONCLUSION

WHEREFORE, the Notice of Deficiency Determination dated May 28, 2010, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest (computed to March 7, 2011):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>PENALTY</u>	<u>TOTAL</u>
2006	\$5,725	\$1,299	\$1,431	\$8,455

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.
