

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23051
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (taxpayer) protested the Notice of Deficiency Determination dated May 26, 2010, asserting income tax, penalty, and interest in the total amount of \$21,150 for taxable year 2005. The taxpayer disagreed with the computation of the gain on the sale of Idaho property that he sold in 2005. 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 2005. 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 contacted the Bureau and stated he would try to get information on the purchase and sale of the property. The taxpayer did not provide the information, so the Bureau reviewed the information available, 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 and subsequently provided copies of his buyer's final closing statement and his seller's closing statement for the property. The Bureau reviewed the information and modified its gain computation. The Bureau sent the taxpayer a modified determination and a letter asking if the taxpayer agreed with the modified determination. The taxpayer failed to respond, so the matter was referred for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not respond, so the Tax Commission decided the matter based upon the information available.

FINDINGS

In 2005, the taxpayer sold property in Idaho with a sales price of \$190,000. This information was provided via a 1099S informational return and was confirmed by the seller's closing statement. The taxpayer documented the purchase price of the property of \$149,900 by his buyer's closing statement. The taxpayer also provided documentation show his closing costs and other basis adjustments on the purchase and sale of the property in the total amount of \$12,542.50. The resulting gain from the sale of the property was \$27,557. 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 2005 Idaho income tax return. In the Bureau's modified determination, the Bureau determined the taxpayer's gain on the sale in much the same way with the same result. Therefore, the Tax Commission upholds the Bureau's modified determination of the taxpayer's gain on the sale of the property and the resultant tax on the gain.

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 May 26, 2010, 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>
2005	\$1,243	\$311	\$371	\$1,925

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.
