

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23077
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (taxpayers) protested the Notice of Deficiency Determination dated March 18, 2010, asserting income tax, penalty, and interest in the total amount of \$16,013 for taxable year 2005. The taxpayers disagreed with the computation of the gain on the sale of Idaho property they 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 taxpayers sold real property located in Idaho in 2005. The Bureau researched the Tax Commission’s records and found the taxpayers did not file an Idaho individual income tax return for that year. The Bureau sent the taxpayers 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, so the Bureau reviewed the information available, determined the taxpayers were required to file an Idaho income tax return, prepared a return for the taxpayers, and sent them a Notice of Deficiency Determination.

The taxpayers protested the Bureau’s determination and asked for the necessary forms to fill out. The Bureau determined the taxpayers’ protest was not perfected, so the Bureau sent the taxpayers a letter detailing what was needed to perfect their protest. The taxpayers perfected their protest, which the Bureau acknowledged and gave them a list of documentation to provide.

The Bureau allowed the taxpayers sufficient time to provide the documentation, but when it was apparent the taxpayers were not going to provide the information, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayers a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers did not respond to the Tax Commission's letter, but on August 23, 2011, the taxpayers' representative contacted the Tax Commission stating a return was prepared and ready to send to the Tax Commission. On August 26, 2011, the Tax Commission received the taxpayers' 2005 Idaho individual income tax return.

LAW AND ANALYSIS

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayers to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayers provided an income tax return that reported the sale of the Idaho property. The Tax Commission reviewed the taxpayers' 2005 income tax return and found it portrayed the taxpayers' taxable income better than the return prepared by the Bureau. The taxpayers met their burden of proof.

CONCLUSION

The taxpayers received income from an Idaho source; the sale of Idaho property. The taxpayers submitted a return that more accurately represented their Idaho taxable income. Therefore, the Tax Commission accepted the taxpayers' 2005 return in lieu of the Bureau's return, subject to the normal review processes of the Tax Commission.

The Bureau added interest and penalty to the taxpayers' Idaho tax liability. The Tax Commission reviewed those additions and found them appropriate as to the taxpayers' tax liability as determined by their income tax return. See Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated March 18, 2010, and directed to [Redacted] is MODIFIED in accordance with this decision, and as so MODIFIED is AFFIRMED.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$27	\$10	\$9	\$46

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 _____ 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.
