

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of ) DOCKET NO. 23735  
)  
[Redacted], ) DECISION  
)  
Petitioner. )  
\_\_\_\_\_ )

[Redacted] (taxpayer) protested the Notice of Deficiency Determination dated December 14, 2010, asserting income tax, penalty, and interest in the total amount of \$30,195 for taxable year 2006. The taxpayer disagreed with the computation of the gain on the sale of Idaho property she sold in 2006. 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 2006. The Bureau researched the Tax Commission's records and found the taxpayer did not file an Idaho individual income tax return for that year. The Bureau sent the taxpayer a letter asking about the sale of the Idaho property and her requirement to file an Idaho income tax return. The taxpayer stated she needed time to gather the documentation for a response. The Bureau extended the time for the taxpayer to provide her documentation, but when nothing was provided, the Bureau prepared an income tax return for the taxpayer and sent her a Notice of Deficiency Determination. The taxpayer protested and sent a copy of her 2007 federal and [Redacted] income tax returns on which she thought the questioned sale was reported.

The taxpayer's 2007 income tax return did report a sale of property, but it was not the sale that occurred in Idaho in 2006. The Bureau continued corresponding with the taxpayer to get the

information on the 2006 property sale but nothing was provided. Consequently, the Bureau referred the matter 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 contacted the Tax Commission and stated she was having difficulty getting her tax preparer to provide her with a copy of the information she gave them to prepare her return. The taxpayer asked for additional time, and within a few months, she provided a 2006 Idaho nonresident 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 taxpayer 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 taxpayer provided an income tax return that reported the sale of the Idaho property. The Tax Commission reviewed the taxpayer's 2006 income tax return and found it portrayed the taxpayer's taxable income better than the return prepared by the Bureau. The taxpayer met her burden of proof.

### CONCLUSION

The taxpayer received income from an Idaho source; the sale of Idaho property. The taxpayer submitted a return that more accurately represented her Idaho taxable income. Therefore, the Tax Commission accepts the taxpayer's 2006 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 taxpayer's Idaho tax liability. The Tax Commission reviewed those additions and found them appropriate as to the taxpayer's tax liability as determined by her income tax return. See Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated December 14, 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>
2006	\$30	\$10	\$8	\$48

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.  
  
\_\_\_\_\_