

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23969
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated March 29, 2011. The Notice of Deficiency Determination asserted additional liabilities for Idaho income tax and interest in the total amounts of \$652 and \$729 for 2008 and 2009, respectively.

In both 2008 and 2009, the petitioners sold cattle and claimed the Idaho capital gains deduction with regard to the gains from these sales. The auditor disallowed this deduction. This disallowance is the sole issue for decision in this docket.

Idaho Code § 63-3022H states, in part, the following:

Deduction of capital gains. (1) If an individual taxpayer reports capital gain net income in determining taxable income, eighty percent (80%) in taxable year 2001 and sixty percent (60%) in taxable years thereafter of the capital gain net income from the sale or exchange of qualified property shall be a deduction in determining Idaho taxable income.

(2) The deduction provided in this section is limited to the amount of the capital gain net income from all property included in taxable income. Gains treated as ordinary income by the Internal Revenue Code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) Property held by an estate, trust, S corporation, partnership, limited liability company or an individual is "qualified property" under this section if the property had an Idaho situs at the time of sale and is:

* * *

(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal

Revenue Code) for the taxable year is from farming or ranching operations in Idaho; (Underlining added.)

The underlined portion of the code section above presents the critical language for this decision. Most of the income reported by the petitioners was gain from the sale of ranch property. The question to be resolved is whether this income is to be classified as being “from farming and ranching operations in Idaho.”

Since “income from farming or ranching” is not defined in the Idaho Income Tax Act, we are directed by the Income Tax Administrative Rule 010.08 to look to the Internal Revenue Code for a definition. The auditor cited sec. 1.175-5(a)(2), Income Tax Regs. and Revenue Ruling 63-26 as excluding from the definition of “gross income from farming” gain from the sale of land. The petitioners have not cited contrary authority.

The Idaho Supreme Court instructs us that, “If there is any ambiguity in the law concerning tax deductions, the law is to be construed strongly against the taxpayer.” Potlatch Corp. v. Idaho State Tax Commission, 128 Idaho 387, 389 (1996), Idaho State Tax Commission v. Stang, 135 Idaho 800, 802 (2001). Based upon the record before us, we find that the petitioners have failed to carry their burden of showing that they are entitled to the deduction sought.

THEREFORE, the Notice of Deficiency Determination dated March 29, 2011, is hereby APPROVED, AFFIRMED, and MADE FINAL.

Since the total amount has been paid in full, there is no demand for payment.

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.
