

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 24182
)
)
Petitioners.) DECISION
)
_____)

On June 29, 2011, the staff of the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing income tax, penalty, and interest for taxable year 2006 in the total amount of \$1,346.

The taxpayers filed a timely appeal and petition for redetermination. The Commission, having reviewed the file, hereby issues its decision.

The Bureau received information showing the taxpayers sold real property in Idaho in taxable year 2006. 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 researched the Commission’s records and found the taxpayer did not file an Idaho individual income tax return to report the income resulting from the sale.

The Bureau sent the taxpayers a letter asking them about the sale of the Idaho property and their requirement to file an Idaho income tax return. The taxpayers responded to the Bureau’s letter stating they no longer had a copy of their 2006 [Redacted] return nor did they have any records of the sale of the Idaho property. Two subsequent letters were received from the taxpayers, one on May 5, 2011, and June 6, 2011, but no additional documentation. The taxpayers stated in their letters that they never received a 1099-S from the sale of the property and that they are convinced

there should be no audit since it has been over five years and that any profit on the sale was minimal at best. Because no return was filed, the Bureau prepared a return for the taxpayers and sent them an NODD.

Upon receipt of the NODD, the taxpayers sent a letter stating again that they do not have a copy of their 2006 [Redacted] tax return or a copy of the original purchase agreement or the sales agreement for the property because the tax laws require they keep this information for three years, not five. They also stated they do not feel an attempt to collect taxes on something that happened over five years ago is fair. The taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review.

On August 24, 2011, the Commission sent the taxpayers a letter giving them two options for having the NODD redetermined. The taxpayers responded by letter but did not request an informal hearing. They again maintain that any taxes are unfair and any attempts to collect taxes from them by the state of Idaho are unjust.

The taxpayers do not deny they sold Idaho property in taxable year 2006. Clearly, Idaho Code § 63-3026A includes income from the sale of Idaho real estate as Idaho taxable income. The information available to the Commission shows the taxpayers sold the Idaho property for \$34,475. Presumably, the taxpayers had basis in the property, but that basis was not disclosed. The taxpayers provided no information or documentation that would substantiate a loss or a gain on the sale. The only information the Commission has regarding the sale is that the gross proceeds from the sale were \$34,475. The Bureau used this figure as the taxpayers' adjusted gross income for Idaho. Since the taxpayer has provided nothing to show this amount is incorrect, the Commission is left with little choice in determining the taxpayers' Idaho income

for 2006. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984)

The taxpayers also argued that it was unfair to attempt to collect taxes on something that happened over five years ago. The Commission makes every effort to review and analyze all the information it receives in a timely manner in fulfilling its charge and duties (Idaho Code section 63-105). Ideally, the Commission would like to notify taxpayers of any tax deficiency shortly after the end of the filing season. However, with the volume of information, the timing of receiving the information, and the available staff, it is not possible.

The Bureau added interest and penalty to the taxpayers' return per Idaho Code §§ 63-3045 and 63-3046. The Commission reviewed those additions and found them proper and in accordance with Idaho Code.

THEREFORE, the Notice of Deficiency Determination dated June 29, 2011, and directed to [Redacted], is AFFIRMED and MADE FINAL.

IT IS ORDERED that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$898	\$ 225	\$233	\$1,356

Interest is computed through December 30, 2011.

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.
