BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 24135
[Redacted],	)	
	)	
Petitioner.	)	DECISION
	)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated April 15, 2011, asserting income tax, penalty, and interest in the total amount of $47,793 for taxable year 2006. Petitioner disagreed with the computation of the gain on the sale of his Idaho property. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioner is a resident of the state of [Redacted]. In 2006, Petitioner sold real property located in Idaho. The Income Tax Audit Bureau (Bureau) researched the Tax Commission's records and found Petitioner did not file an Idaho individual income tax return for that year. The Bureau sent Petitioner letters asking about the sale of his Idaho property and his requirement to file an Idaho income tax return. Petitioner did not respond to the Bureau's letters, so the Bureau reviewed the information available, determined Petitioner was required to file an Idaho income tax return, prepared a return for Petitioner, and sent him a Notice of Deficiency Determination.

Petitioner protested the Bureau's determination stating the gross sales proceeds were incorrect, and that he would provide the necessary information to determine his gain on the sales. The Bureau and Petitioner continued to correspond via e-mail, and additional information was obtained. The Bureau modified its audit report based upon the information provided and asked Petitioner to withdraw his protest. Petitioner stated he wanted his accountant to look over the

Bureau's modified determination before he would withdraw his protest. Petitioner made no further contact with the Bureau, so the matter was referred for administrative review.

The Tax Commission reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner contacted the Tax Commission and discussed the issues of his case, as well as the Bureau's modified determination. Petitioner stated he would send in a statement withdrawing his protest. The Tax Commission never received that statement. Therefore, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code § 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. In 2006, Petitioner sold property in Idaho with a combined sales price of $417,000. This information was provided via 1099S informational returns and confirmed by Petitioner.

Idaho Code § 63-3030 sets forth the filing requirements for nonresidents that have income from Idaho sources. For taxable year 2006 the threshold amount for filing a nonresident return was $2,500. Therefore, if Petitioner realized income on the sale of the Idaho property in excess of $2,500, he was required to file an Idaho income tax return.

Since Petitioner failed to respond to the Bureau's inquiries, the Bureau determined Petitioner's Idaho taxable income solely upon the sales price of the property sold. Petitioner argued this was incorrect as his proceeds from the sales were substantially less. Petitioner provided the Bureau with copies of his purchase and selling statements for both properties. The Bureau reviewed that information, and modified its original determination. Petitioner did not

disagree with the modified determination but he also did not withdraw his protest. Neither has Petitioner provided anything further for the Tax Commission to consider.

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). Petitioner met his burden when he provided information that established his basis in the property sold and the selling costs. As a result, the Bureau modified its determination. The Tax Commission reviewed the Bureau's modified determination and found it to be an accurate representation of Petitioner's Idaho taxable income for taxable year 2006 based upon the information provided.

CONCLUSION

In 2006, Petitioner sold Idaho property thereby producing income from an Idaho source. Petitioner's gain exceeded the threshold for filing an Idaho income tax return for 2006; therefore, Petitioner was required to file a 2006 Idaho income tax return.

Petitioner established his basis and selling costs of the property sold. The Bureau modified its original determination to account for Petitioner's basis and costs. The Bureau also added interest and penalty to Petitioner's Idaho tax liability. The Tax Commission reviewed the Bureau's modified determination and found it accurately represented Petitioner's Idaho taxable income. Therefore, the Tax Commission upholds the Bureau's modified determination.

THEREFORE, the Notice of Deficiency Determination dated April 15, 2011, and directed to [Redacted] is AFFIRMED AS MODIFIED.

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

YEAR	TAX	PENALTY	INTEREST	TOTAL
2006	$3,959	$990	$1,210	$6,159

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2012.

IDAHO STATE TAX COMMISSION

_____

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.

_____