

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 24181
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

[Redacted] (taxpayer) protested the Notice of Deficiency Determination dated June 8, 2011, asserting income tax, penalty, and interest in the total amount of \$22,132 for taxable year 2006. The taxpayer 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

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 letters asking about the sale of his Idaho property and requirement to file an Idaho income tax return. The taxpayer did not respond to the Bureau's letters, so the Bureau reviewed the information available, determined the taxpayer was required to file an Idaho income tax return, prepared a return for the taxpayer, and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination and subsequently provided a copy of his [Redacted] income tax return that reported the sale of the property. The Bureau reviewed the information and modified its audit determination. The taxpayer did not disagree with the Bureau's modified determination, but he also did not withdraw his appeal of the determination; 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 did not respond to the Tax Commission's hearing rights letter, so the Tax Commission decided the matter based upon the information available.

### LAW AND ANALYSIS

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. In 2006, the taxpayer sold property in Idaho with a sales price of \$202,000. This information was provided via a 1099S informational return and confirmed by the taxpayer.

Idaho Code section 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 the taxpayer realized income on the sale of the Idaho property in excess of \$2,500, he was required to file an Idaho income tax return.

The Bureau's initial determination of the taxpayer's Idaho taxable income was based solely upon the sales price of the property sold. However, after that determination was sent to the taxpayer, the taxpayer provided information that showed his actual gain on the sale of the property. The Bureau modified its gain computation and included an Idaho rental loss in its modified determination of the taxpayer's Idaho taxable income.

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 information that established the gain he realized on the sale of the

property. He also provided information showing he incurred an Idaho rental loss. The taxpayer met his burden of proof, and the Bureau corrected its determination accordingly.

CONCLUSION

The taxpayer received income from an Idaho source; the sale of Idaho property. The gain on the sale was determined from information the taxpayer provided, and that gain exceeded the threshold for filing a nonresident Idaho income tax return. The taxpayer was required to file a 2006 Idaho income tax return. Since the gain on the sale was determined by the taxpayer, the taxpayer's Idaho taxable income was essentially determined by the taxpayer. Therefore, the Tax Commission upholds the Bureau's determination that the taxpayer was required to file a 2006 Idaho income tax return and its modified determination of the taxpayer's Idaho taxable income.

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 modified tax liability. *See* Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated June 8, 2011, and directed to [Redacted] is AFFIRMED AS MODIFIED.

IT IS ORDERED that [Redacted] pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2006	\$1,932	\$483	\$532	\$2,947

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 \_\_\_\_\_ 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.

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