

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 24933
[Redacted],)
)
)
) Petitioners.) DECISION
)
_____)

BACKGROUND

On March 20, 2012, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (Petitioners) proposing income tax, penalty, and interest for taxable year 2006 in the total amount of \$17,983. On March 26, 2012, the taxpayer filed a timely protest and provided some additional information. The NODD was modified based on the information provided and sent to the petitioner on July 16, 2012. The balance due remaining for income tax, penalty, and interest for the taxable year 2006 was \$3,332. The file was transferred to the Legal/Tax Policy Division on July 23, 2012, for resolution.

ISSUE

1. Whether the Bureau used the correct basis when calculating the gain on the sale of some Idaho real estate?

DISCUSSION

This is a non-filer case. The Petitioners did not submit Idaho individual income tax returns for taxable year 2006. The Bureau received a 1099-S reporting that the Petitioners had sold real estate in Idaho during taxable year 2006 and had received total gross receipts of \$175,000.

Idaho Code section 63-3030 says in part:

“Persons required to make returns of income.

(a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500)...”

The Bureau sent the Petitioners a letter, dated September 22, 2011, notifying them of the filing requirement of receiving gross receipts over \$2,500 and the missing return. The Petitioners responded arguing that the Commission is unreasonable in asking for information this far past the year of the property sale. However, there is no statute of limitations if a required return has not been filed.

The Petitioners objected to not being allowed the Capital Gain Deduction for the property sold. The Bureau agreed and included the Capital Gain Deduction in the modified NODD.

The Petitioners also questioned the Bureau’s reduction of personal exemptions. The Bureau did calculate the amounts correctly in the original NODD. The proration of income between Idaho and the Petitioner’s state of residency is applied to reduce the personal exemptions and standard deduction in the same ratio.

The Petitioners claim that few records are available for taxable year 2006. The only document provided was a copy of the closing statement from the title company showing the sale transaction. The Petitioners said that the documents related to the purchase of the property and records from the time the property was owned were unavailable.

The Bureau contacted the [Redacted] County Assessor's office to get an independent opinion of the property value in taxable year 1997, when the property was originally purchased.

The Bureau used this amount in the basis calculation.

Idaho Income Tax Administrative Rule 201.01. In General.

a. A taxpayer shall maintain all records that are necessary to a determination of the correct tax liability. Required records must be made available on request by the Tax Commission or its authorized representatives.

CONCLUSION

The Commission has reviewed the Capital Gain calculation as modified by the Bureau and has accepted it.

Having presented little information in support of their position, the Petitioners have failed to meet their burden of proving error on the part of the deficiency determination. Absent verifiable information to the contrary, the Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for that year.

THEREFORE, the NODD dated March 20, 2012, and modified on July 16, 2012, and directed to the Petitioners, is hereby AFFIRMED by this decision.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/06	\$2,164	\$541	\$634	\$3,339

Interest is calculated through October 31, 2012, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

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

An explanation of the Petitioners' 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.
