

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 24996  
 )  
 )  
Petitioners. ) DECISION  
 )  
\_\_\_\_\_ )

On March 29, 2012, 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 years 2006 and 2007 in the total amount of \$32,274.

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 years 2006 and 2007. 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 taxpayers did not file Idaho individual income tax returns to report the income resulting from the sales.

The Bureau sent the taxpayers several letters asking them about the sale of the Idaho property and their requirement to file an Idaho income tax return. The taxpayers did not respond to the Bureau’s letters. Therefore, the Bureau prepared returns for the taxpayers and sent them an NODD.

Upon receipt of the NODD, the taxpayers sent a letter dated May 25, 2012, stating that they disagreed with the assessment because the property involved was sold at a net loss and they were

not residents of Idaho. The letter further stated that they were unaware of any filing requirements with Idaho but would be filing returns by the end of June 2012. The Bureau did not receive returns or any other documentation from the taxpayers. The file was transferred to the Legal/Tax Policy Division for administrative review.

On August 9, 2012, the Commission sent the taxpayers a letter giving them two options for having the NODD redetermined. When no response was received, a follow-up letter was sent on September 19, 2012. To date there has been no correspondence from the taxpayers and no documentation of any sort has been provided.

The taxpayers do not deny that they sold Idaho property in taxable years 2006 and 2007. 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 Idaho property in taxable year 2006 for \$155,000 and sold property in taxable year 2007 for \$200,000. 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 sales for taxable years 2006 and 2007 were \$155,000 and \$200,000 respectively. The Bureau used this figure as the taxpayers' adjusted gross income for Idaho. Since the taxpayers have provided nothing to show this amount is incorrect, the Commission is left with little choice in determining the taxpayers' Idaho income for taxable years 2006 and 2007. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984).

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

THEREFORE, the NODD dated March 29, 2012, is APPROVED and MADE FINAL.

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

<u>YEAR</u>	<u>75: #</u>	<u>PENALTY</u>	<u>17 (5 (67#</u>	<u>TOTAL</u>
2006	\$ 9,147	\$2,287	\$2,798	\$14,232
2007	12,560	3,140	2,964	<u>18,664</u>
			TOTAL DUE	<u>\$32,896</u>

Interest is computed through March 15, 2013.

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 \_\_\_\_\_ 2012.

IDAHO STATE TAX COMMISSION

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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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