

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 25120
Petitioner.)
DECISION
_____)

On May 24, 2012, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for taxable year 2007, in the total amount of \$22,839.

On July 22, 2012, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing, but rather chose to rely upon the additional information previously submitted. The Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) received information on the sale of property located in Idaho. During its research of the sale, the Bureau found that the seller, the taxpayer, did not file an Idaho individual income tax return for the year of the sale. 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 sent the taxpayer a letter asking about the sale of the Idaho property and his requirement to file an Idaho income tax return. The taxpayer responded stating that the sale of the Idaho property was his only Idaho activity, and he did not submit an Idaho return because the sale qualified for the section 121 exclusion, and therefore was not required to be reported on his [Redacted] return. The Bureau requested documentation from the taxpayer to support his claim, but

he did not respond. The Bureau determined the taxpayer was required to file an Idaho income tax return, and prepared a return for the taxpayer based upon the information available. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested.

The taxpayer stated that the NODD was in error because it was based solely on the purchase price. In the months following the issuance of the NODD, the taxpayer submitted documentation to verify his basis in the property, the improvements made, and closing costs. The Bureau modified its audit report and sent a copy to the taxpayer for acceptance and withdrawal of his appeal. The taxpayer responded stating he was still attempting to locate additional invoices that would increase his cost basis. The Bureau continued its attempts to resolve the matter with the taxpayer, but made little progress. Eventually, the taxpayer ceased correspondence with the Bureau and the matter was referred for administrative review.

The Commission sent the taxpayer a letter setting forth two alternative methods for redetermining the Bureau's determination. The taxpayer failed to respond. Therefore, the Commission reviewed the file, and issues its decision based upon the information available.

The taxpayer is a nonresident of Idaho. In 2007, he sold property located in Idaho. The Idaho Code is clear in section 63-3026A(3)(ii) that income resulting from the disposition of real property in Idaho is Idaho source income. Idaho Code section 63-3030 sets the filing requirement thresholds for individuals having Idaho source income. The threshold for nonresident individuals for taxable year 2007 was \$2,500. Therefore, if the taxpayer realized a gain from the sale of the Idaho property in excess of \$2,500, he was required to file an Idaho income tax return. The taxpayer's gain on the sale was greater than the filing threshold; therefore, the taxpayer was required to file an Idaho individual income tax return for taxable year 2007.

The Bureau prepared a return for the taxpayer, and in its final modification the Bureau made allowances for the taxpayer's basis in the property, and for the taxpayer's prorated share of his standard deduction and personal exemption. The Commission reviewed that determination and found it to be an accurate representation of the taxpayer's Idaho taxable income. Therefore, the Commission finds that the taxpayer was required to file a 2007 Idaho individual income tax return, and that his Idaho income tax liability was correctly determined by the Bureau.

THEREFORE, the Notice of Deficiency Determination dated May 24, 2012, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$3,629	\$907	\$899	\$5,435

Interest is calculated through August 5, 2013.

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 _____ 2013.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2013, 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.
