

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25314
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On August 1, 2012, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing additional income tax and interest for taxable year 2008 in the total amount of \$336.

On September 12, 2012, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers responded to the Commission’s hearing rights letter and requested an informal hearing be held telephonically. The hearing was held on May 23, 2013. The taxpayers did not provide any additional documentation for the Commission’s consideration. The Commission, having reviewed the file, hereby issues its decision.

The taxpayers timely filed their 2008 Idaho individual income tax return. The taxpayers reported the sale of real property on their [Redacted] income tax return. This sale was also reported on the taxpayers’ Idaho income tax return. The taxpayers claimed the Idaho capital gains deduction and excluded 60 percent of the gain on the sale.

The taxpayers’ 2008 return was selected for review of the Idaho capital gains deduction by the Income Tax Audit Bureau (Bureau). [Redacted] The information provided by the taxpayers showed that they had originally paid \$30,000 for the property; the remaining portion of the reported cost was attributed to a yurt, which the taxpayers purchased for \$15,944. Because the yurt is personal property and does not qualify for the capital gains deduction, the Bureau

adjusted the taxpayers' Idaho return disallowing the portion of the Idaho capital gains deductions attributable to the yurt. The Bureau sent the taxpayers an NODD, which the taxpayers protested.

The taxpayers' protest pertained to an issue not previously discussed prior to the issuance of the NODD. The taxpayers' disagreement with the NODD did not pertain to the disallowance of the capital gain attributable to the yurt. The taxpayers' appeal was centered on the argument that because an additional 1.7 acres was acquired after the initial purchase, their cost basis in the property should be increased, therefore decreasing his gain, resulting in no additional tax owed. The additional acreage was acquired by the taxpayers as a result of granting easement access to a third party. No monies were exchanged in this transaction. The Bureau informed the taxpayers that because the additional acreage was "paid" for with easement rights rather than cash, the added cost of the land would be the same as what was given up, not the fair market value of the land at the time of the trade. The Bureau informed the taxpayers that they had no cost basis in the easement; therefore they would have the same, zero, cost basis in the additional acreage. The taxpayers did not agree, and their file was transferred to the Legal/Tax Policy Division for administrative review.

The Commission sent the taxpayers a letter that discussed the issue and gave them two methods for redetermining the NODD. The taxpayers requested an informal hearing, but did not provide additional documentation for the Commission's consideration. Therefore, the Commission decided the matter based upon the information available.

Idaho Code section 63-3022H provides for a 60 percent deduction of the capital gain net income from the sale or exchange of qualified property in the determination of taxable income. In the case of the sale of real property, the property must be Idaho property, and held by the taxpayer for at least 12 months. Tangible personal property, if used in Idaho for at least 12

months by a revenue producing enterprise, would also qualify for the Idaho capital gains deduction. Other types of property also qualify for the deduction, but they are of no consequence to the matter at hand.

[Redacted]The Commission upholds the adjustment to the taxpayers' 2008 Idaho individual income tax return.

THEREFORE, the Notice of Deficiency Determination dated August 1, 2012, and directed to [Redacted], is hereby AFFIRMED.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL DUE</u>
2008	\$290	\$55	\$345

Interest is computed to October 11, 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 _____ 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.
