

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-459-922-944
[Redacted])	
)	
Petitioners.)	DECISION
_____)	

The Idaho State Tax Commission (Commission) reviewed your case and this is our final decision. We uphold the Notice of Deficiency Determination (Notice) dated March 15, 2017. This means **you need to pay \$6,713** of tax, penalty, and interest for taxable year 2014. The Commission now DEMANDS immediate payment of this amount.

Background

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 Petitioners, as sellers of the property in 2014, did not file an Idaho individual income tax return.

The Bureau sent Petitioners a letter asking about the sale of the Idaho property and their requirement to file an Idaho income tax return. Petitioners did not respond. The Bureau sent follow-up letters to Petitioners but never received a response. The Bureau determined Petitioners were required to file an Idaho income tax return and prepared a return for them based on the information available. The Bureau then sent Petitioners a Notice, which they protested.

Petitioners stated in their appeal letter that the property sold was part of a 1031 exchange and documented as such on their federal income tax return. Petitioners also stated that the basis used by the Bureau to calculate the gain is incorrect. The Bureau acknowledged Petitioners' protest and requested documentation related to the 1031 exchange and a copy of Petitioners' federal income tax return. Petitioners did not provide either. Therefore, the Bureau referred the matter for administrative review.

The Commission sent Petitioners a letter discussing the alternatives for redetermining a protested Notice. Petitioners requested an informal telephone conference which was held on March 8, 2018. Petitioners provided additional documentation after the hearing, which has been reviewed and taken into consideration.

Law and Analysis

Petitioners are nonresidents of Idaho. In 2014, according to an Internal Revenue Service (IRS) issued Form 1099-S, they sold property located in Idaho. Petitioners did not file an Idaho income tax return. 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 § 63-3030 sets the filing requirement thresholds for individuals having Idaho source income. The threshold for nonresident individuals for taxable year 2014 was \$2,500. Therefore, if Petitioners realized a gain from the sale of the Idaho property in excess of \$2,500, they were required to file an Idaho income tax return. However, if Petitioners did in fact execute a valid 1031 exchange as they claim in their protest, it is possible that no tax would be due to the State of Idaho.

In general, Internal Revenue Code (I.R.C.) section 1031 provides that no gain or loss is recognized if a taxpayer exchanges business or investment property solely for business or investment property of a like kind. Taxpayers who execute a 1031 exchange must report the exchange to the IRS on federal Form 8824 and file it with their tax return in the year in which the exchange occurred. Form 8824 figures the amount of gain deferred as a result of the exchange, computes the amount of required gain to be reported on the tax return in the current year if cash is involved in the exchange, and it also figures the basis of the like-kind exchange property received.

IRS Form 8824 requires:

- Descriptions of the properties exchanged
- Dates that properties were identified and transferred

- Value of the like-kind and other property received
- The date that the relinquished property was originally acquired
- Information on a related party (if applicable)
- Cash received or paid; liabilities relieved or assumed
- Adjusted basis of like-kind property given up; realized gain

In the present matter, Petitioners did not include Form 8824 with their federal income tax return filed with the IRS. They did provide the Commission with documentation related to the acquisition of properties located in Washington, but the documentation is not adequate to substantiate that a valid 1031 exchange involving the Idaho property took place in taxable year 2014.

Conclusion

On appeal, a deficiency determination issued by the Commission “is presumed to be correct, and the burden is on the taxpayer to show that the Commission’s decision is erroneous.” *See Parker v. Idaho State Tax Comm’n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson’s Inc. v. State Dep’t of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Commission requires Petitioners provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Petitioners have not done so.

The Commission finds that Petitioners were required to file a 2014 Idaho individual income tax return and that their Idaho income tax liability was correctly determined by the Bureau. The return prepared by the Bureau made allowances for Petitioners’ basis in the property, for Petitioners’ prorated share of their standard deduction and personal exemptions. The Notice is an accurate representation of Petitioners’ Idaho taxable income.

Therefore, IT IS ORDERED and THIS DOES ORDER that Petitioners pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2014	\$4,857	\$1,214	\$642	\$6,713

Interest is calculated to November 2, 2018.

An explanation of Petitioners' right to appeal this decision is enclosed.

DATED this _____ day of _____ 2018.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2018,
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.
