

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

In the Matter of the Protest of )  
[Redacted] ) DOCKET NO. 1-453-045-760  
)  
)  
Petitioner. ) DECISION  
\_\_\_\_\_ )

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated July 7, 2017. Petitioner disagreed with the Tax Discovery Bureau’s (Bureau) determination of his income for the tax years 2009, 2011, 2014, and 2015. The Tax Commission reviewed the matter and for the reasons stated below upholds the Bureau’s determination.

**BACKGROUND**

The Bureau reviewed the Tax Commission’s records and found Petitioner had not filed Idaho individual income tax returns since tax year 1995. The Bureau summonsed bank information, gathered other public information, and spoke with Petitioner regarding his activities. The Bureau ultimately determined Petitioner was required to file Idaho individual income tax returns for tax years 2009 through 2015. The Bureau prepared returns for Petitioner for those years and sent him a Notice of Deficiency Determination.

Petitioner protested the Bureau’s determination. Petitioner stated he did not have the income the Bureau determined. Petitioner stated he was insolvent at the time and lost property in foreclosure. Petitioner asked for copies of all the documents the Bureau used to make its determination.

The Bureau reviewed Petitioner’s request with the Tax Commission’s legal staff. The legal staff advised the Bureau that Petitioner could have copies of the information requested. The Bureau sent Petitioner the documentation and allowed Petitioner time to review it. Petitioner contacted the Bureau asking what was next in the process. The Bureau told Petitioner that since

he protested the Notice of Deficiency Determination, his case would be forwarded to the Tax Commission's Appeal Unit unless he wanted to withdraw his protest and file actual income tax returns. Petitioner stated he did not have anything to report. All the assets (mobile homes) he received and sold were received as gifts, so no tax was due when he sold them. Petitioner stated he lost everything in 2008 and 2009. He stated he has nothing and that he is dealing with the IRS on a substantial tax liability.

Petitioner did not withdraw his protest, so the Bureau referred the matter for administrative review. The Appeals Unit (Appeals) reviewed the matter and sent Petitioner a letter asking him how he wanted to proceed with his protest. Petitioner requested a hearing, but first he wanted all the information the Tax Commission used to determine his tax liability. Appeals responded to Petitioner that the Tax Commission had already sent him copies of the information on two separate occasions and that it would not be sending it again. However, Appeals did provide Petitioner with the Idaho Code references he asked for and then asked Petitioner to provide a list of dates he would be available for a hearing. Petitioner did not respond, so Appeals sent a follow-up letter giving Petitioner a deadline to provide dates for a hearing. Still, Petitioner did not respond. Since Petitioner failed to respond and has provided no new information, the Tax Commission decided the matter based on the information available.

### **LAW AND ANALYSIS**

Idaho has income thresholds for filing Idaho income tax returns. *See* Idaho Code § 63-3030. From the information gathered by and provided to the Bureau, Petitioner's income for tax years 2009 through 2015 exceeded the filing threshold. The Bureau prepared returns and sent a Notice of Deficiency Determination for all the tax years, 2009 through 2015. However, in talking with Petitioner prior to sending the case to Appeals, the Bureau decided there was not sufficient evidence to support a filing requirement for tax years 2010, 2012, and 2013. Therefore, the Bureau

dropped those years from the Notice of Deficiency Determination. Because the Bureau cancelled the 2010, 2012, and 2013 years, this decision only addresses tax years 2009, 2011, 2014, and 2015.

Petitioner stated the income the Bureau claimed he received was from the sale of property (mobile homes) he received as gifts, and gifts are not taxable. However, gains from the sale of property are considered part of gross income even if the property was acquired by gift. *See* Internal Revenue Code (I.R.C.) § 61(a)(3). Therefore, if Petitioner sold the gifted property for more than his basis in the property, he had gross income. Petitioner did not establish his basis in the property he sold.

The property Petitioner sold were vintage 1970 and 1980 model mobile homes. One of the factors in determining Petitioner's basis in the property is the fair market value of the property at the time of the gift. Another is the basis of the property in the hands of the donor. *See* I.R.C. § 1015. Since Petitioner provided neither of these values and the Bureau was not given enough information to determine a value, the Bureau placed Petitioner's basis in the properties at \$0. Therefore, any sales of the properties result in a gain for Petitioner.

Petitioner claimed to be insolvent during part of the period. However, Petitioner provided no proof of his insolvency. The Bureau, on the other hand, gathered evidence from bank records, court records, and news articles showing or stating Petitioner had assets and income.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct and the burden is on the taxpayer to show that the deficiency is erroneous. *See Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). Petitioner did not meet his burden. In fact, Petitioner provided nothing to support his position.

The Tax Commission reviewed the returns the Bureau prepared for Petitioner and found them to be a reasonable representation of Petitioner's income.

**CONCLUSION**

Petitioner is a resident of Idaho. From the information available it appears Petitioner had gross income in the years in question that exceeded the filing requirements for making Idaho individual income tax returns. *See* Idaho Code § 63-3030. Petitioner disagreed with the income the Bureau determined but failed to provide anything contrary. Therefore, the Tax Commission upholds the Bureau’s determination.

The Bureau added interest and penalty to Petitioner’s tax deficiency. The Tax Commission reviewed those additions and found them to be appropriate and in accordance with Idaho Code §§ 63-3045 and 63-3046, respectively.

THEREFORE, the Tax Commission AFFIRMS the Notice of Deficiency Determination dated July 7, 2017, directed to [Redacted]

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$66,352	\$16,588	\$23,732	\$106,672
2011	450	113	122	685
2014	6,524	1,631	1,047	9,202
2015	4,958	1,240	597	<u>6,795</u>
			TOTAL DUE	<u>\$123,354</u>

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

An explanation of Petitioner’s right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2019,  
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.

---