BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-336-026-112
	)	
	)	
Petitioner.	)	DECISION
	)	

The Idaho Income Tax Audit Bureau (Bureau) sent (Petitioner) a Notice of Deficiency Determination (Notice) for tax years 2019 and 2021. Petitioner protested, disagreeing with the Bureau's denial of Internal Revenue Code (IRC) section 121 primary home exclusion on his 2019 return and denial of medical expenses claimed on his 2021 return. The Tax Commission has reviewed the information available and hereby modifies the Notice issued by the Bureau.

BACKGROUND

Petitioner filed a resident Idaho income tax return for 2019, and nonresident returns for tax years 2020 and 2021. The Bureau conducted an examination of these returns, requesting documentation for numerous items. Listed are the items examined by the Bureau:

- IRC section 121 exclusion regarding property sold in Colorado during 2019 and an Idaho property sold in 2021.
- Rental real estate expenses on Idaho property claimed in 2019 and 2020.
- Petitioner's domicile status for years 2020 and 2021.
- Business expenses related to two sole proprietorships called “ and “
- 2021 retirement distributions not reported on Petitioner's return.
- Medical expenses, gambling losses, and mortgage interest claimed on his 2021 return.

Petitioner responded to the inquiry by providing copies of his Nevada driver's license issued September 28, 2020, and documentation of a post office box in Nevada. He also submitted a lay-off letter, indicating he was laid off from his Nevada employment around September of 2021.

Through correspondence with the Bureau, Petitioner argued that he was domiciled in Nevada throughout 2020 and 2021. The Bureau examined the information available and determined the domicile statuses reported on his 2019, 2020, and 2021 returns were correct.

No other documentation was provided to the Bureau for the other items listed previously. The Bureau then issued Petitioner a Notice for tax years 2019 and 2021 to disallow all items not substantiated. Petitioner protested specific items on the Notice, namely:

1. He qualified for the IRC section 121 primary home exclusion for the 2019 sale of his Colorado residence. Petitioner argues the Colorado property was his primary residence until November of 2018.

2. He incurred $30,000 in deductible out-of-pocket medical expenses during 2021.

The Bureau acknowledged Petitioner's protest and transferred the case to the Tax Commission's Appeals Unit (Appeals). Appeals sent Petitioner a letter explaining the appeals process and his right to a hearing. Petitioner participated in an informal hearing to explain his residency status, business ventures, domestic disputes, and his general problem with how the audit was conducted. Appeals and Petitioner eventually agreed to have additional documentation submitted for consideration. After some time, Petitioner provided documentation for review.

LAW AND ANALYSIS

Primary Home Exclusion:

IRC section 121(a) provides that:

> Gross income shall not include gain from the sale or exchange of property if, during the five-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating two years or more.

If the taxpayer is single, the excluded gain or exchange shall not exceed $250,000. Petitioner purchased the Colorado residence in 2008 with his ex-spouse. During the ownership of the property, Petitioner lived and worked in multiple places. He spent time in Colorado, Idaho, Arizona, and was a resident alien in Mongolia temporarily. However, he contends his primary residence was the Colorado property until he decided to move to Idaho with his son's mother towards the end of the summer in 2018. The property was finally sold on January 11, 2019. Petitioner states during the 10 years he owned the Colorado property, every other place he resided was intended to be temporary. Colorado is where he went to school and where his siblings and father lived.

According to the Bureau, IRC section 121(a) does not apply to the sale of the Colorado residence because the house was not Petitioner's principal residence for the requisite period prescribed in the statute. The Bureau asserts that Petitioner changed his primary residence to Coeur d'Alene, Idaho on January 1, 2016. This assertion is based on the purchase of an Idaho resident fish and game license on September 2, 2017. Idaho Fish Game resident applicants are requested to state their date of initial residency. In this case, Petitioner stated his Idaho residency date as January 1, 2016. However, in correspondence with Appeals, Petitioner stated he did not intend to permanently move to Idaho until the end of summer in 2018.

To determine Petitioner's primary residence during the time frame in question, a review of relevant statutes, documentation, and Petitioner's own account of events must be conducted. Treasury Regulation section 1.121-1(b)(2) defines "principal residence:"

> In the case of a taxpayer using more than one property as a residence, whether property is used by the taxpayer as the taxpayer's principal residence depends upon all the facts and circumstances. If a taxpayer alternates between 2 properties, using each as a residence for successive periods of time, the property that the taxpayer uses a majority of the time during the year ordinarily will be considered the taxpayer's principal residence. In addition to the taxpayer's use of the property, relevant factors in determining a taxpayer's principal residence, include, but are not limited to—
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> I. The taxpayer's place of employment;
> II. The principal place of abode of the taxpayer's family members;
> III. The address listed on the taxpayer's federal and state tax returns, driver's license, automobile registration, and voter registration card;

IV. The taxpayer's mailing address for bills and correspondence;
V. The location of the taxpayer's banks; and
VI. The location of religious organizations and recreational clubs with which the taxpayer is affiliated.

I. Petitioner's place of employment during the years in question was sporadic and changed constantly.

II. Petitioner's father and siblings resided in Colorado during the years in question. Petitioner's son, born in April of 2017, resides in Idaho.

III. Petitioner's 2015 and 2016 tax returns state his mailing address as an Idaho rental in Coeur d'Alene. His 2017 and 2018 returns show a different home which he rented, then purchased in Coeur d'Alene. Petitioner was not issued an Idaho driver's license until August 18, 2017. He also did not start registering vehicles in Idaho until 2018.

IV. Petitioner had his W-2s, 1099s, and other tax documents sent to his Colorado residence through 2016.

V. According to information available to the Tax Commission, Petitioner banks with Wells Fargo with a routing number out of Colorado. Petitioner purchased a nonresident fish and game license on May 13, 2016, which does not support the residency date of January 1, 2016.

VI. No information regarding this issue could be found.

The Tax Commission believes it is reasonable to consider Petitioner's true Idaho residency date to be somewhere between 2017 and 2018. The date of the issuance of his Idaho driver's license, August 18, 2017, would be the earliest residency date considering all the information available. Petitioner did state the primary reason for staying in Idaho during that time was to care for his son, but he was not born until April of 2017. Due to the change of his Idaho residency date, the Tax Commission will allow IRC section 121 primary home exclusion for the sale of the Colorado property, as Petitioner met the two-year statutory requirement.

Medical Expenses:

Petitioner provided an Excel spreadsheet of his out-of-pocket medical expenses for 2021 during the appeals process. Unfortunately, a simple explanation of the costs incurred does not substantiate the expenses. Treasury Regulation section 1.213-1(h) describes substantiation requirements for medical expenses:

> In connection with claims for deductions under section 213, the taxpayer shall furnish the name and address of each person to whom payment for medical expenses was made and the amount and date of the payment thereof in each case. If payment was made in kind, such fact shall be so reflected. Claims for deductions must be substantiated, when requested by the district director, by a statement or itemized invoice from the individual or entity to which payment for medical expenses was made showing the nature of the service rendered, and to or for whom rendered; the nature of any other item of expense and for whom incurred and for what specific purpose, the amount paid therefor and the date of the payment thereof; and by such other information as the district director may deem necessary.

Petitioner has not substantiated the medical expenses claimed on his 2021 return. Therefore, the disallowance made by the Bureau is hereby upheld.

CONCLUSION

The Bureau sent Petitioner a Notice disallowing many items claimed on his 2019 and 2021 returns. Petitioner provided additional information to substantiate the IRC section 121 exclusion on his home sale in Colorado. Unfortunately, Petitioner has failed to prove anything else in the Notice is incorrect.

THEREFORE, the Tax Commission MODIFIES the Notice of Deficiency Determination dated April 4, 2023, directed to

It is ORDERED that Petitioner pay the following tax, penalty, and interest:

YEAR	TAX	PENALTY	INTEREST	TOTAL
2019	$3,287	$164	$494	$3,945
2021	7,080	354	707	8,141
			TOTAL DUE:	**$12,086**

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

Interest is calculated through June 21, 2024.

DATED this ________ day of ____________________ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this ________ day of ______________________________ 2024, 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:

Receipt No.

____

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