

SUMMARY STATEMENT

Krucker v. Idaho State Tax Comm., Docket No. 43832

In an appeal from Ada County, the Supreme Court affirmed the district court's grant of summary judgment against the Estate of Zippora Stahl, Deceased; and Kathleen Krucker, Personal Representative (collectively, "the Estate") and in favor of the Idaho State Tax Commission (Commission).

A federal law enacted in 2010 permitted executors of estates of people dying in 2010 to elect to pay federal income taxes in lieu of estate taxes. In the event that an executor made this election, for federal income tax purposes, gains from the sale of the decedent's property are measured by the modified carryover basis provided by Section 1022 of the Internal Revenue Code rather than the stepped-up basis provision of Section 1014 of the Internal Revenue Code.

Ms. Stahl died in 2010. The Estate elected to pay federal income taxes rather than the estate tax. The Estate sold substantially-appreciated property owned by Ms. Stahl at the time of her death. In its 2012 federal income tax return, the Estate calculated its income tax liability based upon a modified carryover basis of \$1,457,341 and a sales price of \$16,339,000. This resulted in a taxable gain of \$14,881,659 from the sale.

The Estate also filed an Idaho income tax return for 2012. When it did so, the Estate initially used the same modified carryover basis for the Chino property as it had for its federal income tax return. The Estate computed its state tax liability as \$1,029,107, which the Estate paid. The Commission processed the Estate's 2012 Idaho income tax return and determined that the Estate had incorrectly computed a credit for taxes paid to other states. The Commission adjusted that credit and issued a Notice of Deficiency Determination ("NODD") in July of 2013. The NODD identified a deficiency of \$20,629 for tax year 2012.

The Estate protested the NODD and filed an amended 2012 Idaho income tax return. In the amended Idaho return, the Estate computed the gain from the sale of the Chino property using a stepped-up basis of \$16,000,000 and sought a refund of \$1,026,435 of its earlier payment. The Commission denied the refund.

The Estate filed its complaint with the district court seeking refund of its claimed overpayment, plus accrued interest. The Estate's theory was that Idaho taxable income for 2012 is to be determined pursuant to the Internal Revenue Code of 1986, as amended, and in effect on January 1, 2012; a provision of the 2010 federal law repealed the modified carryover basis provisions of Section 1022 of the Internal Revenue Code; and thus, the Estate was entitled to use the stepped-up basis provided by Section 1014 for purposes of computing its state income tax liability.

The Court held that Section 1022 was not repealed and that the modified carryover basis of that Section was incorporated into the Idaho Income Tax Act for tax year 2012.