

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 13690
[Redacted],)	
)	DECISION
Petitioner.)	
)	
)	

[Redacted] (petitioner) protests the Notice of Deficiency Determination issued by the Idaho State Tax Commission (Commission) dated April 13, 1999. Although numerous adjustments were made by the auditor, no additional income tax, penalty, or interest was asserted against the petitioner for 1994 or 1995 since the petitioner is an S corporation. The only amounts asserted for 1996 were the minimum tax due (\$20) plus penalty and interest. The total amount asserted for 1996 was \$29.

The auditor made numerous adjustments to the petitioner's Idaho income tax returns. These adjustments included adjustments deducted as insurance, entertainment, rent, auto expense, cost of goods sold, and many other adjustments. The petitioner indicated that additional documentation would be submitted to further support some or all of the claimed deductions. No further information has been submitted. Therefore, the Commission now renders its decision based upon the information in the file at this time.

Many of the deductions sought by the petitioner have to do with an office in the home of [Redacted], the sole shareholders of the petitioner. The petitioner claimed a wide variety of such expenses. The Commission finds that these items are not deductible by the petitioner.

The "office" in question was rented to the petitioner by the [Redacted]. Internal Revenue Code § 280A stated, in part:

Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc. (a) General rule. Except as otherwise provided in this section, in the case of a taxpayer who is an individual or an S corporation, no deduction otherwise allowable under this chapter shall be allowed with respect to

the use of a dwelling unit which is used by the taxpayer during the taxable year as a residence.

* * *

(c) Exceptions for certain business or rental use; limitation on deductions for such use.

(1) Certain business use. Subsection (a) shall not apply to any item to the extent such item is allocable to a portion of the dwelling unit which is exclusively used on a regular basis –

(A) [as] the principal place of business for any trade or business of the taxpayer.

(B) as a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business, or

(C) in the case of a separate structure which is not attached to the dwelling unit, in connection with the taxpayer's trade or business.

In the case of an employee, the preceding sentence shall apply only if the exclusive use referred to in the preceding sentence is for the convenience of his employer.

* * *

(3) Rental use. Subsection (a) shall not apply to any item which is attributable to the rental of the dwelling unit or portion thereof (determined after the application subsection (e)).

* * *

(6) Treatment of rental to employer. Paragraphs (1) and (3) shall not apply to any item which is attributable to the rental of the dwelling unit (or any portion thereof) by the taxpayer to his employer during any period in which the taxpayer uses the dwelling unit (or portion) in performing services as an employee of the employer.

* * *

(d)(2) Personal use of unit. For purposes of this section, the taxpayer shall be deemed to have used a dwelling unit for personal purposes for a day if, for any part of such day, the unit is used –

(A) for personal purposes by the taxpayer or any other person who has an interest in such unit, or by any member of the family (as defined in section 267(c)(4) of the taxpayer or such other person;

(b) by any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit (whether or not a rental is charged for the use of such other unit; . . .

* * *

(f)(2) Personal use by shareholders of S corporation. In the case of an S corporation, subparagraphs (A) and (B) of subsection d(2) shall be applied by substituting "any shareholder of the S corporation" for "the taxpayer" each place it appears.

Since the dwelling unit was used continuously as a residence by the shareholders of the petitioner, the deductions sought regarding the office in the home of the [Redacted] are denied.

Numerous expenditures were claimed for meal expenses. The majority of these were disallowed by the auditor due to lack of the documentation required by Internal Revenue Code § 274. Even though one's meals are not otherwise deductible, they may qualify as travel and entertainment if they are properly documented. Treasury Regulation 1.274-5T states, in part, the following:

Elements of an expenditure or use (1) In general. Section 274(d) and this section contemplate that no deduction shall be allowed for any expenditure for travel, entertainment, or a gift unless the taxpayer substantiates the following elements for each such expenditure:

* * *

Entertainment in general. Elements to be proved with respect to an expenditure for entertainment are-

(i) Amount. Amount of each separate expenditure for entertainment, except that such incidental items as taxi fares or telephone calls may be aggregated on a daily basis;

(ii) Time. Date of entertainment;

(iii) Place. Name, if any, address or location, and designation of type of entertainment, such as dinner or theater, if such information is not apparent from designation of the place;

(iv) Business purpose. Business reason for the entertainment or nature of business benefit derived or expected to be derived as a result of the

entertainment and, except in the case of business meals described in section 274(e)(1), the nature of any business discussion or activity;

(v) Business relationship. Occupation or other information relating to the person or persons entertained, including name, title, or other designation, sufficient to establish business relationship to the taxpayer.

The regulation goes on to specify that the record should be made at or near the time of the expenditure. The Commission finds that the petitioner has failed to meet the documentation requirements of Internal Revenue Code § 274. Therefore, the deductions are limited to those allowed by the auditor.

WHEREFORE, the Notice of Deficiency Determination dated April 13, 1999, is MODIFIED and, as so modified, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$20	\$10	\$7	\$37

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

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2001, 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]
[Redacted]
[Redacted]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1