



utilities, contractual work, wages, etc. The taxpayers stated they would greatly appreciate the opportunity to file their taxes and pay their fair and correct amount.

The Bureau allowed the taxpayers additional time to submit returns for consideration, but all the Bureau received from the taxpayers was requests for additional time. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayers a letter giving them two alternatives for having the Notice of Deficiency Determination redetermined. The taxpayers chose a hearing before a representative of the Tax Commission. The Tax Commission scheduled a hearing and sent the taxpayers notice of the date, time, and place of the hearing. The taxpayers failed to appear. The Tax Commission sent the taxpayers a letter expressing its regret that the taxpayers did not attend the hearing. The Tax Commission also stated it was willing to accept any additional information the taxpayers wanted considered. The taxpayers responded by letter with additional information.

The taxpayers stated they operated a business called [Redacted]. They stated the business has been unprofitable, and their decision to keep it going was because of its legacy more than anything else. Their other major business activity was in real estate sales. The taxpayers stated this business might have been profitable, but it is doubtful that there was much profit. The taxpayers stated their real estate business was contract sales, not cash sales.

In their business, the taxpayers would purchase property, hold it for a period of time, sell the property on contract, and then later sell the contract. The expenses of the business included the cost of the property, interest on the loans, commissions paid on the sales, and discounts on the contract sales. The taxpayers stated there were also other "hidden costs" that they did not list. The taxpayers provided an example of a property sale starting with a property they purchased for

\$100,000 and selling it for \$150,000. After all the costs, other than the hidden costs, the taxpayers figured, in this example, they would have a net loss of \$9,000.

The Tax Commission reviewed what the taxpayers provided and found that there was nothing of substantive value to warrant a change in the Bureau's determination. The Tax Commission is well aware that the taxpayers had basis in the properties they bought and sold. Likewise, the taxpayers had other costs associated with the properties, i.e. closing costs. However, deductions are a matter of legislative grace, and the taxpayers bear the burden of showing the amount of the deduction and that it is allowed by statute. New Colonial Ice, Inc. v. Helvering, 292 U.S. 435, 54 S.Ct. 788 (1934). The taxpayers have not provided any documentary evidence that shows the returns the Bureau prepared are incorrect. They have not met their burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984).

The Tax Commission reviewed the returns the Bureau prepared and determined that, absent any information to the contrary, the Bureau's determination could be upheld. However, the Tax Commission decided the taxable income the Bureau determined was overstated. The Tax Commission reviewed the information the Bureau gathered and determined the taxpayers' taxable income should be reduced to the following amounts for the following years.

1997	\$110,877
1998	\$109,534
1999	\$ 58,229
2000	\$126,065

WHEREFORE, the Notice of Deficiency Determination dated October 9, 2002, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$8,567	\$2,142	\$3,713	\$14,422
1998	8,457	2,114	3,015	13,586
1999	4,250	1,063	1,206	6,519
2000	9,675	2,419	1,966	<u>14,060</u>
			TOTAL DUE	<u>\$48,587</u>

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

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2004.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2004, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.  
  
\_\_\_\_\_