

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17397
[REDACTED])	
)	DECISION
Petitioners.)	
_____)	

[Redacted](petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated December 12, 2002, asserting additional liability for Idaho income tax and interest in the total amount of \$682 and \$355 for 1999 and 2000, respectively.

The petitioners claimed losses from a trade or business in both 1999 and 2000. The auditor made three adjustments to the petitioners' 1999 claimed business losses: (1) she disallowed the claimed training expense in the amount of \$1,300; (2) she disallowed the claimed tools expense in the amount of \$3,270; and (3) she disallowed the claimed vehicle expense in the amount of \$590. The auditor also denied investment tax credit claimed in the amount of \$162.

The auditor made two adjustments to the petitioners' claimed business loss for 2000: (1) she disallowed the training expense in the amount of \$1,100; and (2) she disallowed claimed tools expense in the amount of \$762. The auditor also disallowed a claimed deduction for the acquisition of an alternative energy device in the amount of \$2,232.

The petitioners submitted documentation to support their position after the issuance of the Notice of Deficiency Determination referred to above. Upon reviewing the material submitted by the petitioners, the Commission finds that the petitioners have amply documented their claimed deductions for training for both 1999 and 2000. They have also adequately supported their claimed deductions for vehicle expense for 1999 and for the alternative energy device in 2000.

The Tax Commission staff asked for, but did not receive, additional documentation to support the petitioners' claimed deductions for tools expense claimed in each of the years here in question. Therefore, these adjustments made by the auditor must be sustained.

The petitioners claimed the Idaho investment tax credit with regard to assets the cost of which was recovered pursuant to Internal Revenue Code § 179. Idaho Code § 63-3029B sets out the authority for the Idaho investment tax credit. It stated (in 1999), in part:

Income tax credit for capital investment. (1) At the election of the taxpayer there shall be allowed, subject to the applicable limitations provided herein as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to the sum of:

(a) the tax credit carryovers; and

(b) the tax credit for the taxable year.

(2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.

(3) As used in this section "qualified investment" means certain depreciable property which:

(a) is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the internal revenue code subject to the limitations provided for certain regulated companies in section 46(f) of the internal revenue code and is not a motor vehicle under eight thousand (8,000) pounds gross weight;

* * *

(10) Only for the purposes of subsections (3)(a) and (7) of this section, references to sections of the "internal revenue code" mean the sections referred to as they existed in the internal revenue code of 1986 prior to November 5, 1990.

Treasury Regulation § 1.48-1 provides that qualified property must be "section 38 property" and that to be such it must be subject to depreciation. It further provides that if the cost of the property is not recovered through a method of depreciation but through a deduction of the full cost in one taxable year that a deduction for depreciation with respect to such property is not allowable to the taxpayer. Since the costs here in question were deducted in one taxable year (pursuant to

Internal Revenue Code § 179), the property is not "section 38 property," and therefore, the investment is not eligible for the Idaho investment tax credit.

WHEREFORE, the Notice of Deficiency Determination dated December 12, 2002 is hereby MODIFIED, and, as so modified, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax, penalty, and interest (calculated to July 15, 2004):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$ 417	\$ 121	\$ 538
2000	58	12	<u>70</u>
			<u>\$ 608</u>

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

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

DATED this _____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, 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]
