

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17985
[REDACTED])	
)	DECISION
Petitioners.)	
_____)	

[Redacted](petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated January 28, 2004, asserting additional liability for Idaho income tax, penalty, and interest in the total amounts of \$4,409, \$2,618, and \$4,059 for 1999, 2000, and 2001, respectively.

The auditor made several adjustments. Adjustments were made to the Schedules C (Profit or Loss from Business) filed by the petitioners. The auditor disallowed the itemized deductions claimed. A capital gain deduction claimed by the petitioners for 1999 was denied. For 2000, deductions claimed for a contribution to a college savings program and for an alternative energy device were denied.

In May of 2002, notice of the examination of the returns addressed in this decision was sent to the petitioners. After numerous unsuccessful attempts to obtain the documentation to verify the deductions claimed by the petitioners, the notice of deficiency determination referred to above was sent to the petitioners disallowing the deductions in question. The auditor disallowed claimed Schedule C (Profit or Loss from Business) expenses in the amounts of \$23,914, \$12,914, and \$28,202 for 1999, 2000, and 2001, respectively. He disallowed claimed Schedule A (Itemized Deductions) in the amounts of \$12,449, \$8,899, and \$17,625 for 1999, 2000, and 2001, respectively. He disallowed a claimed Idaho capital gain deduction in the amount of \$4,803 for 1999. He disallowed a claimed deduction for a contribution to a college savings program in the

amount of \$3,750 for 2000. The final adjustment was to deny a claimed deduction relating to an alternative energy device in the amount of \$973 for 2000. All of these adjustments were made due to the failure of the petitioners to provide verification that they qualified for the deductions.

The petitioners provided additional information regarding their 1999 activities but provided no such information for their 2000 or 2001 activities.

Some of the material that the petitioners submitted for 1999 related to their two Schedules C (Profit or Loss from Business). In addition to the grounds cited by the auditor for the disallowance of the deductions, the Commission was considering whether these losses should be disallowed pursuant to Internal Revenue Code § 183 (Activities not engaged in for profit). Section 183 provides that, generally, no deduction shall be allowed with regard to an activity which is not engaged in for a profit. Regulation 1.183-2 provides, in part, that, "[t]he determination whether an activity is engaged in for profit is to be made by reference to objective standards, taking into account all of the facts and circumstances of each case. Although a reasonable expectation of profit is not required, the facts and circumstances must indicate that the taxpayer entered into the activity, or continued the activity, with the objective of making a profit."

One "business" was designated "[Redacted]." On the Schedule C for that activity, the petitioners reported income in the amount of \$739. They claimed expenses for this activity in the amount of \$14,717. Inquiry was made as to the source of the income, but no satisfactory answer was received. Questions were also posed as to when the "business" might become profitable, what was being done to bring in more income, what advertising was being done and other such questions the answers to which might show an intent to make a profit. No satisfactory answer was presented. Therefore, the Commission finds that the activity was not engaged in for profit and the deductions, to the extent that they exceed the income reported, are denied. The petitioners provided no further

material to support the losses claimed with regard to this activity for 2000 or 2001. In 2000, the petitioners reported no income from this activity and claimed expenses in the amount of \$5,025. For 2001, the petitioners reported income in the amount of \$2,135 and claimed expenses in the amount of \$22,823. The total income from the activity for the three years was \$2,874, and the claimed expenses totaled \$42,565.

A representative for the petitioners explained the situation as follows:

I can further understand your position with regard to [Redacted] schedule C businesses. Perhaps the best information I could give you would be [Redacted]'s explanation to me. He started the spray business because he had previously spent some years farming and was thus quite familiar with agriculture in general. At the time he was employed with [Redacted], but in the spring months of the year generally worked shorter hours and thus felt he had some time available to pursue the spraying activity in addition on the side. He invested in the equipment fully intending to pursue the activity. After this, however, the people at [Redacted]'s were able to use him more and thus he had less time to pursue the spraying business than he had originally anticipated. He was going to dispose of the equipment and get his money back out of it, but his brothers assured him that they could use it in their farming operations and that they would pay him a lease on the equipment if he would permit them to use it. So he turned the equipment over to them, they have used it, and also paid him very little for its use for the last few years. [Redacted] apparently feels Himself in a difficult position, not being able to repossess the equipment and sell it for reasons of trying to have some peace in the family.

From this, it appears that Mr. [Redacted] would have disposed of the equipment having noted that he could not devote sufficient time to the activity to make it profitable. However, for personal family reasons, he did not do so. This is not sufficient to establish that the objective of carrying on the activity was to make a profit. Therefore, the losses from this activity are also denied for the years of 2000 and 2001.

The petitioners also reported losses from "[Redacted]" in each of the years. For 1999, they reported income in the amount of \$675. No income was reported for this activity for either 2000 or

2001. The expenses claimed with regard to this activity were in the amounts of \$9,030, \$3,284, and \$681 for 1999, 2000, and 2001, respectively. No explanation was provided to establish that there was an objective to make a profit from this activity. Therefore, these losses are likewise disallowed.

The petitioners claimed losses for 2000 and 2001 for something called "[Redacted]." No income was reported for this activity for either year. The expenses claimed with regard to this activity totaled \$4,605 and \$4,608 for 2000 and 2001, respectively. No explanation was provided regarding the nature of this "business," why it showed no income, or when or why the petitioners felt that it could or should show a profit. Therefore, these losses are denied.

For each of the years, the auditor disallowed the claimed itemized deductions and allowed instead the standard deduction. The petitioners submitted additional documentation during the administrative appeal only for those items relating to 1999.

Upon reviewing the documentation for 1999, the Commission finds that the amounts of itemized deductions which the petitioners have substantiated are less than the amount of the standard deduction. Therefore, the auditor's position must be upheld with regard to the petitioners' 1999 itemized deductions. Since the petitioners failed to submit additional substantiation relating to their claimed itemized deductions for 2000 and 2001, the Commission finds that the auditor's position should be affirmed for those years as well.

The remaining adjustments are the elimination of the Idaho capital gain deduction for 1999, and the disallowance of the deduction for a contribution to a college savings program and for an alternative energy device for 2000. No additional authority or substantiation have been furnished by the petitioners to support their positions with regard to these adjustments. Therefore, the Commission finds that the auditor's adjustments should be upheld.

WHEREFORE, the Notice of Deficiency Determination dated January 28, 2004, is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax, penalty, and interest (calculated to May 15, 2005):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$3,218	\$161	\$1,092	\$4,471
2000	2,108	105	547	2,760
2001	3,317	166	604	<u>4,087</u>
				<u>11,318</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 _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2005, 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]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]