

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of )  
 ) DOCKET NO. 18844  
[Redacted] Petitioners. )  
 ) DECISION  
 )  
 )  
 )  
 )  
 )

---

On March 11, 2005, the Income Tax Audit Bureau (Audit) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers), proposing additional individual income tax, penalty, and interest in the total amount of \$533 for tax years 2001 and 2002.

The taxpayers filed a timely appeal and petition for redetermination. They submitted additional information but did not request a conference. The Tax Commission has reviewed the file and hereby issues its decision.

Audit selected the taxpayers' 2001 and 2002 Idaho income tax returns for review. The taxpayers' federal and state returns and the accompanying schedules were examined. Audit asked the taxpayers to provide documentation to support the alternative energy devices deduction claimed in both returns.

The taxpayers sent a copy of a Warranty Deed, a Cash Memorandum Agreement, a letter from [Redacted]., and a Limited Lifetime Warranty from [Redacted]. An accompanying note indicated the taxpayers had also installed a storm sliding glass door but could not locate a receipt.

Because Audit determined siding, windows, and storm doors do not qualify for the alternative energy device deduction, it sent the taxpayers a NODD by certified mail. When that NODD was returned by the post office stamped "unclaimed," Audit re-sent the NODD requesting regular delivery.

[Redacted] protested:

I am writing to appeal the NODD for the tax years 2001 and 2002, TIN [Redacted]. I am currently compiling documentation regarding itemized costs for insulation, windows, etc. and will forward this as soon as complete. Please send any necessary forms or information needed for the appeal process.

When the promised information was not received within a reasonable time period, the taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayers did not respond to a letter advising them of their appeal rights and have not contacted the Tax Commission further.

In each of the income tax returns under review, the taxpayers claimed credit for alternative energy devices. The taxpayers were asked to provide receipts to substantiate the deductions. The taxpayers provided documents related to the purchase and installation of siding, windows, insulation, and a storm door.

Idaho Code § 63-3022C allows a credit for the purchase and installation of certain alternative energy devices:

**63-3022C. Deduction for alternative energy device at residence.**

-- (1) An individual taxpayer who installs an alternative energy device to serve a place of residence of the individual taxpayer in the state of Idaho may deduct from taxable income the following amounts actually paid or accrued by the individual taxpayer: forty percent (40%) of the amount that is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of the alternative energy device in the year when such device is completed or acquired and is placed in service by the taxpayer; and twenty percent (20%) per year thereafter for a period of three (3) succeeding years; provided, however, that said deduction shall not exceed five thousand dollars (\$5,000) in any one (1) taxable year.

(2) An individual taxpayer who purchases a residence in the state of Idaho served by an alternative energy device for which none or less than all of the total deduction allowable under this section has been taken, may take the deduction specified in this section, or the unused balance of the deduction.

(3) **As used in this section, "alternative energy device" means any system or mechanism or series of mechanisms using solar radiation, wind or geothermal resource as defined in section 42-4002, Idaho Code, primarily to provide heating, to provide cooling, to produce electrical power, or any combination thereof.**

Alternative energy device includes a fluid to air heat pump operating on a fluid reservoir heated by solar radiation or geothermal resource. Alternative energy device shall also include either a natural gas heating unit, or a propane heating unit, or a wood burning stove which meets the most current environmental protection agency certification, or a pellet stove which meets the most current industry and state standards, and which natural gas heating unit, or propane heating unit, or wood burning stove which meets the most current environmental protection agency certification, or pellet stove which meets the most current industry and state standards is used to replace during the same tax year a wood burning stove designed for residential heating and that does not meet environmental protection agency requirements for certification, provided the wood burning stove is surrendered to the department of environmental quality or its agent for destruction in accordance with applicable federal and state rules. (Emphasis added.)

The documents provided by the taxpayers and the letter of protest all refer to siding, insulation, windows, and a storm door. None of the listed improvements to the taxpayers' personal residence qualify as alternative energy devices. The deduction for installation of an alternative energy device must be denied.

Idaho Code § 63-63-3022B provides a deduction for insulation of residences as follows:

**63-3022B. Deduction for insulation of residences.** For taxable years commencing on and after January 1, 1976, an individual taxpayer may deduct from taxable income **an amount actually paid or accrued by the individual taxpayer during the taxable year for the actual installation, but not replacement, of insulation within any existing building in the state of Idaho which serves as a place of residence of the individual taxpayer.** As used in this section, "insulation" means any material commonly used in the building industry and actually installed for the purpose of retarding the passage of heat energy into or out of a building, **including but not limited to, such items as fiberglass insulation, weather stripping, double pane windows, and storm doors and windows.** As used in this section, "existing building" means any building in being, under construction, or subject to an outstanding legal building permit on the effective date of this act.

The deduction allowed by Idaho Code § 63-3022B is very specific in defining insulation and is further clarified by Income Tax Administrative Rule 140.04 where it is stated, “Siding is not considered insulation.”

The Cash Memorandum Agreement dated December 1, 2000, lists eight specific work items to be done to the taxpayers’ personal residence. The cash price is shown at the bottom of the list and the terms of payment are stated. However, the specific work items are not priced out separately. The list details steps to be done related to siding the residence. In addition, seven insulated vinyl windows and a storm door are to be installed.

Siding is not considered insulation for Idaho income tax purposes. The taxpayers have presented no evidence of an amount spent for insulation that would qualify for the deduction for the years at issue. The deduction for insulation of a residence is not available to the taxpayers.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com’n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayers to show that the tax deficiency is erroneous. Albertson’s, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984). The taxpayers have not met their burden of proof.

WHEREFORE, the Notice of Deficiency Determination dated March 11, 2005, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax and interest for 2001 and 2002:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$261	\$54	\$315
2002	200	28	228
		TOTAL	<u>\$543</u>

Interest is computed through October 1, 2005.

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

An explanation of the taxpayers' 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]  
[REDACTED]

Receipt No.

\_\_\_\_\_