

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted]) DOCKET NO. 18904
Petitioners.)
) DECISION
)
)
_____)

On July 8, 2005, the Income Tax Audit Bureau (Bureau) 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 \$947 for tax years 2002 and 2003.

The taxpayers filed a timely appeal and petition for redetermination, and a telephone conference was held. No additional information was submitted. The Tax Commission has reviewed the file and hereby issues its decision.

The Bureau selected the taxpayers' 2002 and 2003 income tax returns for examination. The Bureau reviewed the charitable contributions and personal property taxes taken as itemized deductions in the taxpayers' federal Schedule A. Travel expenses deducted as business travel in the taxpayers' federal Schedule C were also scrutinized.

The Bureau met with the taxpayers and reviewed the records they provided. The NODD was issued disallowing a large portion of the claimed charitable contributions and all of the personal property taxes claimed in both returns. Business expenses claimed in the 2002 federal return were denied. However, a credit for contributions to [Redacted] was added to the taxpayers' 2002 Idaho return.

Mr. [Redacted] objected to the NODD and the taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review. At Mr. [Redacted]'s request, an informal

telephone conference was held, and the audit issues were discussed. At that time, Mr. [Redacted] explained his relationship with an organization that promotes the culture and traditions of the [Redacted] way of life and its people.

He said he was instrumental in starting the tax exempt organization known as [Redacted] and is still responsible for all dance performances and securing all materials for teaching. He said, basically, he runs the group with no paid employees. He said he does endless things to help the organization succeed and donates time and effort.

While discussing the deductions that were denied, he conceded that he and his wife gained personal pleasure and personal education from their travel to [Redacted]. He said they visited their home town and the people and places they once knew. In addition, they met with dance instructors and learned more about traditional dance and various dance steps and music. He also conceded that the folk-dance camp he attended in [Redacted] was to improve his ability to dance and teach dance to children.

However, Mr. [Redacted] expressed his strong conviction that the costumes he and his wife donated to [Redacted] should be valued as art and priced and deducted accordingly. He said his wife, an accomplished seamstress, made the costumes with the help of ladies under her direction. He advised that the donated costumes would cost far more than the credit claimed if they were purchased. He said he felt an exception should be made because of the value and unique circumstances of the donations. The taxpayers could not provide any records for the purchase of fabric or other items used to create the costumes.

The taxpayers' 2003 return included a federal Schedule C, Profit or Loss From Business. Review of that schedule identifies business income of \$3,170 and travel expenses of \$3,170. When asked for an explanation of the travel Mr. [Redacted] explained the taxpayers' trip to [Redacted] and

a trip Mr. [Redacted] took to [Redacted] for advanced dance classes. The only substantiation submitted was airline boarding passes.

Internal Revenue Code § 162 and Internal Revenue Regulation § 1.274-5A(b) state in part the elements of an expenditure. To be allowed credit for travel and business expenses, a taxpayer must substantiate the following elements: (i) Amount; (ii) Time and place of travel or entertainment (or use of a facility with respect to entertainment), or date and description of a gift; (iii) Business purpose; and (iv) Business relationship to the taxpayer of each person entertained, using an entertainment facility, or receiving a gift.

The taxpayers clearly derived personal pleasure as much as anything from both trips they deducted as travel for business. They did not provide substantiation of the amount or business purpose for the travel expenses they claimed in their federal Schedule C. The taxpayers must be denied the credit shown for business travel expenses in 2003.

Internal Revenue Code § 170 states in part that there shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary. Internal Revenue Regulation § 1.170-2(2) clarifies that no deduction is allowable for contribution of services.

Internal Revenue Code § 170(f)(8) provides for the substantiation requirements for certain contributions. As a general rule, no deduction is allowed under subsection (a) for any contribution of \$250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets certain requirements. An acknowledgment shall be considered contemporaneous if the taxpayer obtains the acknowledgement on or before the earlier of the date on which the taxpayer files a return for the taxable year in which

the contribution was made or the due date for filing the return.

In addition, Internal Revenue Regulation § 1.170A-13(b)(3) states in part that if a taxpayer makes a charitable contribution of property other than money and claims a deduction in excess of \$500, the taxpayer shall maintain written records stating the cost or other basis of the property and shall include the record in his or her income tax return. Internal Revenue Regulation 1.170A-4 may limit the donation of appreciated property (fair market value greater than cost).

During the review and appeal processes, Mr. [Redacted] debated the value of the many costumes the taxpayers made and donated to the [Redacted]. There is little doubt the taxpayers have given a lot to [Redacted] and have played a major role in the organization's success. However, time and service cannot be deducted as charitable contributions even when the organization qualifies as a charitable organization.

The taxpayers have submitted several letters from the organization referring to costumes donated by the taxpayers. One such letter thanks Mrs. [Redacted] for her time in mobilizing 18 volunteers to sew costumes stating, "whose in kind efforts totaled \$1800." Another letter estimates value by comparing similar hand-made costumes in [Redacted] at \$400 each.

The taxpayers claimed a \$1,800 donation in their 2002 return that was supported by a completed federal Form 8283 Noncash Charitable Contributions showing costumes that were "created" by donor with a fair market value of \$3,000 and an adjusted basis of \$1,800. The taxpayers have established no costs related to the items donated. Time is not deductible pursuant to Internal Revenue Regulation § 1.170A-13(b)(3). The deduction must be denied.

In schedule A of the taxpayers' 2003 federal return, they claimed a donation of \$8,000. A document attached with the Schedule A showed Mr. [Redacted] donated 200 hours at \$40 an hour as dance director for a total contribution to [Redacted] of \$8,000. The letters and receipts furnished

during the review process have not changed the picture. Nothing has been submitted to support the cost basis for creating the costumes or to establish the \$8,000 as a donation of something other than time and service. The deduction must be denied.

The taxpayers were asked to provide an explanation and documentation of the personal property taxes they claimed as a credit in their Schedule A for taxes paid in both 2002 and 2003. No evidence or explanation was submitted for consideration. The credit must be denied.

The monetary donations for which the taxpayers submitted receipts were allowed, and an additional credit (the maximum amount) was allowed for contributions to Idaho Youth Facilities in 2003. Although the taxpayers had not claimed the credit in the return they filed, the donation was identified in the receipts the taxpayers furnished.

Deductions are a matter of legislative grace and the taxpayer bears the burden of showing that each deduction is allowable by statute. New Colonial Ice Co. v. Helvering, 292 U.S. 435, 54 S.Ct. 788 (1934); Higgins v. C.I.R., T.C. Memo. 1984-330, (1984). The taxpayers did not provide any further documentation or support for their deductions after what was provided to the Bureau. They have not met their burden of record keeping or showing that the deductions were permitted. Therefore, absent any information to substantiate the deductions disallowed by the Bureau, the Tax Commission must uphold the Bureau's determination.

WHEREFORE, the Notice of Deficiency Determination dated July 8, 2005, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax and interest for 2002 and 2003:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$ 173	\$ 24	\$197
2003	715	63	778
		TOTAL	<u>\$975</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 BY MAIL

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

Receipt #
