

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	
[Redacted])	DOCKET NO. 19041
)	
Petitioner.)	DECISION
_____)	

On August 4, 2005, the Idaho State Tax Commission's (Commission) Income Tax Audit Bureau (Bureau) issued a Notice of Deficiency Determination to [Redacted] ([Redacted]) proposing additional income tax and interest for the taxable year 2001 in the amount of \$24. On that same day, the Bureau issued another Notice of Deficiency Determination to the Petitioner for tax years 2002 and 2003 proposing additional income tax and interest in the total amount of \$743.

On August 25, 2005, the Bureau received a petition for redetermination on behalf of the Petitioner in response to the NODDs issued by the Bureau on August 4, 2005. On September 7, 2005, the Bureau received a letter from the Petitioner requesting that the audit file be transferred to the Commission's legal department based upon the Petitioner's belief that the Bureau had mishandled the documentation previously provided.

The Commission issued a hearing rights letter to the Petitioner on January 3, 2006, informing the Petitioner of its appeal rights on tax years 2001, 2002, and 2003 and subsequently followed up the hearing rights letter with two telephone calls. The Commission hereby issues its decision based upon the information available.

Tax Year 2001

The Petitioner is an Idaho corporation formed in 2001. At the time of its formation, its shareholders also owned another corporate entity. Upon reviewing the books and records of the related corporate entity, the Bureau identified income and expense items that should have been reported by the Petitioner instead of the related entity. The Bureau separated out the various income and expense items between the Petitioner and the other entity resulting in \$60,765 of expenses in excess of income being attributable to the Petitioner for tax year 2001. The Bureau then conducted an audit of the income and expense items resulting in a \$21,357 reduction of the \$60,765 amount as follows:

Amount reclassified	\$(60,765)
Audit adjustments:	
Gross receipts	5,740
Repairs	3,364
Meals and entertainment	1,772
Store supply and decoration	10,236
Parking	245
Net adjusted amount	<u>\$(39,408)</u>

Of the \$39,408 net loss amount, the Bureau determined that \$23,020 should be allowed as a net operating loss carryforward deduction in 2002 and that \$15,854 should be allowed as a net operating loss deduction carryforward in 2003.

Tax Years 2002 and 2003

The Bureau reviewed the income and deductions used by the Petitioner in arriving at the Petitioner's Idaho taxable income for tax years 2002 and 2003. The Bureau made the following adjustments:

Tax Year	2002	2003
Taxable income as filed	\$1,403	\$9,666
Audit adjustments:		
Gross receipts	9,364	17,523
Repairs	4,305	5,778
Meals and entertainment	526	337
Store supply and decoration	5,385	1,474
Music	0	878
Parking	2,037	77
Idaho Net Operating Loss deduction	(23,020)	(15,854)
 Taxable income as adjusted	 <u>\$0</u>	 <u>\$19,879</u>

Finding

Based upon additional information provided by the Petitioner, the Commission reverses the Bureau's audit adjustment increasing the Petitioner's gross sales for 2001, 2002, and 2003 in the amounts of \$5,740, \$9,364, and \$17,523, respectively. The remaining issues in this case involve various deductions in computing taxable income. Taxable income in Idaho is based upon federal taxable income, and the principles of federal income tax law generally apply in Idaho. See Idaho Code sections 63-3002, 63-3011B and 63-3022. It is well established in Idaho law, as well as federal income tax law and the tax laws of other states, that a taxpayer claiming a deduction, exemption, or credit bears the burden of establishing his or its entitlement to the same, both as to law and fact. As to law, statutes allowing deductions and exemptions are "construed strongly against the taxpayer."¹ The U.S. Supreme Court has stated:

Whether and to what extent deductions shall be allowed depends upon legislative grace; and only as there is clear provision therefor can any particular deduction be allowed. . . . Obviously, therefore, a taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms.²

¹Potlatch Corp. v. Idaho State Tax Com'n, 128 Idaho 387, 913 P.2d 1157, 1159 (1996), *citing* Hecla Mining Co. v. Idaho Tax Com'n, 108 Idaho 147, 151, 697 P.2d 1161, 1165 (1985).

²New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440 (1934); *see also* Appeal of Sunny Ridge Manor, Inc., 106 Idaho 98, 675 P.2d 813 (1984); Bistline v. Bassett, 47 Idaho 66, 272 P. 696 (1928).

If a material fact upon which a deduction depends is not proved, the taxpayer, upon whom the burden rests, must bear his or her misfortune.³

It is the Commission's finding that [Redacted] has not met its burden of showing the Bureau's adjustments to the Petitioner's deductions to be incorrect.

As a result of the aforementioned findings, the Petitioner's Idaho taxable income is recalculated as follows:

	Tax Year	2001	2002	2003
Taxable income as filed			\$ 1,403	\$ 9,666
Reclassifications		\$(60,765)		
Adjustments:				
Gross receipts		0	0	0
Repairs		3,364	4,305	5,778
Meals and entertainment		1,772	526	337
Store supply and decoration		10,236	5,385	1,474
Music				878
Parking		245	2,037	77
Idaho Net Operating Loss deduction from 2001			(13,656)	(18,210)
Taxable income as adjusted		\$(45,148)	\$ 0	\$ 0

The amount of available Idaho net operating loss carryforward from tax year 2001 is \$13,282 (\$45,148 less \$13,656 and \$18,210).

WHEREFORE, the Notice of Deficiency Determination issued to [Redacted], dated August 4, 2005, is hereby MODIFIED, and as so modified is APPROVED, AFFIRMED, and MADE FINAL.

³Burnet v. Houston, 283 U.S. 223 (1931).

IT IS ORDERED and THIS DOES ORDER that the Petitioner receives the following refund of tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$ 20	\$ 5	\$ 25
2002	(43)	(11)	(54)
2003	(357)	(57)	(414)
		TOTAL DUE	<u><u>\$(443)</u></u>

Interest is calculated through December 31, 2006.

An explanation of the Petitioner's rights to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2006, 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]

Certified No.
