

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19193
[REDACTED])	
)	DECISION
Petitioners.)	
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)	

[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated October 14, 2005. The Notice of Deficiency Determination asserted additional liabilities for Idaho income tax and interest in the total amounts of \$5,448, \$3,390, and \$4,730 for 2001, 2002, and 2003, respectively.

Upon reviewing the information in the file, the Commission finds that the statute of limitations as set out in Idaho Code § 63-3068(a), as it related to the asserted 2001 liability, had expired prior to the issuance of the Notice of Deficiency Determination. Therefore, the liability for 2001 is abated.

Information in the file indicates that the auditor requested additional documentation to support the claimed deductions for expenses claimed by an S Corporation in which the petitioners held an interest. The requested documentation was not provided to the auditor. Therefore, the auditor reduced the deductions claimed by the S Corporation. This increased the income attributed to the petitioners and produced the deficiency referred to above. During the administrative appeal, the petitioners still did not provide the additional documentation. This is the only adjustment made by the auditor.

Taxpayers bear the burden of proof with regard to deductions. The U. S. Supreme Court addressed this issue as follows:

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.

New Colonial Ice Co. Inc. v. Helvering, 292 U.S. 435, 440, 54 S.Ct. 788, 790 (1934).

The petitioners in this matter have not provided the requested documentation. Therefore, they have failed to carry their burden of proof. Accordingly, the Commission affirms the deficiency.

WHEREFORE, the Notice of Deficiency Determination dated October 14, 2005, 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 and interest (computed to March 15, 2007):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$ 2,934	\$ 674	\$ 3,608
2003	4,292	759	<u>5,051</u>
			<u>\$ 8,659</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 included 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]

Receipt No.

[REDACTED]
