

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19395
[REDACTED])	
)	DECISION
Petitioner.)	
_____)	

[Redacted] (petitioner) protests the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated February 23, 2006. The notice of deficiency determination asserted additional Idaho income tax and interest in the total amount of \$2,309 and \$1,706 for 2002 and 2003, respectively.

FACTS AND PROCEDURAL HISTORY

The petitioner is a psychotherapist. He timely filed his Idaho resident income tax returns for 2002 and 2003. In those returns, the petitioner filed Schedules C (Profit or Loss From Business). He showed no income on these schedules. He reflected expenses in the total amounts of \$15,900 and \$13,400 for 2002 and 2003, respectively. These deductions were denied by the auditor. The petitioner contends that these deductions should be allowed.

Also on the returns filed by the petitioner for 2002 and 2003, deductions for charitable contributions were claimed. The petitioner did not have documentation to verify that these charitable contributions were made. The auditor denied the deductions in the amounts of \$7,190 and \$6,954 for 2002 and 2003, respectively. The petitioner contends that these charitable contributions should be allowed as deductions.

Other adjustments were made by the auditor. These adjustments were not contested by the petitioner. Therefore, they will not be discussed further.

OPINION

A. Schedule C Expenses.

During the years here in question, the petitioner was an employee of a hospital. He did not operate a business other than that of being an employee of the hospital during the years in question. Internal Revenue Code §162 provides that, “[t]here shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business,” The auditor found that the main problem with the expenses claimed with regard to this issue was that there was no “business.”

The petitioner contends that he needed a considerable amount of preparation for his deposition for a case in which he and his employer were named as defendants. The auditor determined that most of the claimed expenses were not deductible. Any such expenditures that would be deductible would be as employee business expenses not as business deductions. The auditor determined that some of the expenses were eligible employee business expenses, but these would only be deductible to the extent that such expenses exceeded two percent of the taxpayer’s adjusted gross income. The auditor determined that the eligible expenditures did not exceed two percent of the petitioner’s adjusted gross income. The petitioner has failed to show that the auditor’s determination is incorrect. Therefore, the auditor’s determination regarding this issue must be affirmed.

B. Charitable contributions.

The petitioner contends that he visited numerous churches during the years here in question. In the interest of maintaining anonymity, he left contributions of cash. He received no receipts for such contributions. He produced no witnesses who could verify that such contributions were made. The auditor disallowed these claimed charitable contributions.

The petitioner contends that he would stop at various churches and leave cash contributions in offering plates. He indicated that no witnesses were present when he left the contributions. He would record the date, denomination, and amount of the alleged contribution. It was not possible to establish to which church the alleged contribution was given.

Treasury Regulation 1.170A-13 states, in pertinent part:

Recordkeeping and return requirements for deductions for charitable contributions. (a) Charitable contributions of money made in taxable years beginning after December 31, 1982.

(1) In general. If a taxpayer makes a charitable contribution of money in a taxable year beginning after December 31, 1982, the taxpayer shall maintain for each contribution one of the following.

(i) A cancelled check.

(ii) A receipt from the donee charitable organization showing the name of the donee, the date of the contribution, and the amount of the contribution. A letter or other communication from the donee charitable organization acknowledging receipt of a contribution and showing the date and amount of the contribution constitutes a receipt for purposes of this paragraph (a).

(iii) In the absence of a canceled check or receipt from the donee charitable organization, other reliable written records showing the name of the donee, the date of the contribution, and the amount of the contribution.

Upon reviewing the record, the Commission finds that the petitioner has failed to carry his burden of proof that he made the charitable contributions here in question.

WHEREFORE, the Notice of Deficiency Determination dated February 23, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following taxes, penalty, and interest (calculated to November 30, 2006):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$1,965	\$414	\$2,379
2003	1,521	240	<u>1,761</u>
		TOTAL DUE	<u>\$4,140</u>

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

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 envelopes addressed to:

[REDACTED]

Receipt No.
