BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of [Redacted], Petitioner.	))))))	DOCKET NO. 19188 DECISION

[Redacted] (petitioner) protests the Notice of Deficiency Determination issued by the auditors for the Idaho State Tax Commission (Commission) dated September 28, 2005, regarding the calendar years of 2000, 2001, and 2002, inclusive. The Notice of Deficiency asserted no additional amount due by the corporation since the income adjustments are to be reflected on the returns of the shareholder.

THE ISSUES

1. For 2001, the auditors disallowed "selected expenses" in the total amount of $20,364.
2. For 2002, the auditors disallowed "selected expenses" in the total amount of $38,453.
3. For 2002, the auditors disallowed depreciation in the total amount of $58,330.

DISCUSSION

The petitioner has the burden of proof with regard to both the law and the facts regarding deductions. 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.
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> * * *
>
> 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. v. Helvering, 292 U.S. 435, 440, 54 S.Ct. 788, 790 (1934).

2001 SELECTED EXPENSES

There were numerous deductions disallowed by the auditors for 2001. Most of these adjustments were due to the lack of verification by the petitioner that the expenditures constituted deductible amounts. The auditors disallowed irrigation tax paid, which the petitioner had deducted. A payment to a clothing store was disallowed. Several payments to insurance companies were disallowed. Three payments to the [Redacted] were disallowed. Adjustments were made to reduce deductions claimed by the petitioner to a credit card company. Expenditures with regard to operating an [Redacted] were disallowed. A payment to [Redacted] was disallowed. The total of these adjustments for 2001 was $20,364.

Although a good deal of documentation has been submitted, it is unclear whether any of the documentation is related to the disallowed deductions. Therefore, the adjustment in the amount of $20,364 is affirmed.

2002 SELECTED EXPENSES

For 2002, two payments for irrigation tax were disallowed. Several payments for insurance were disallowed. Some other expenditures for which no documentation was presented were disallowed. All expenditures relating to [Redacted] owned by the petitioner were disallowed. Finally, the books and records presented by the petitioner for the audit listed total expenses less than what was claimed on the petitioner's income tax return. No explanation was offered for this difference. Therefore, this difference was disallowed. For 2002, the total of these adjustments was $38,452.74. One payment in the amount of $14.50 appears to have been paid for irrigation tax with regard to business property. Therefore, this payment is deductible. The remainder of this adjustment made by the auditors is affirmed.

2002 DEPRECIATION

Depreciation in the amount of $58,330 was disallowed. Of this amount, $20,123 was disallowed due to the deduction being duplicated on the shareholder's return. The equipment was purchased in the name of the petitioner[1]. The payment for the equipment, however, was made by the shareholders[2]. Upon reviewing the documentation submitted by the petitioner, we find insufficient information to disturb the findings of the auditors.

Another $19,000 was disallowed as being related to the [Redacted] discussed later in this decision. This adjustment is affirmed.

The petitioner claimed depreciation in the amount of $19,207 with regard to a 2002 [Redacted] which appears to have been purchased on December 24, 2002. A log was furnished showing the use of the vehicle from the date of purchase (December 24, 2002) to the end of the year. A review of the information provided establishes that the vehicle was used for business purposes for about 4.11 percent of the mileage. The petitioner claimed 100 percent business usage of the vehicle. The depreciation needs to reflect this adjustment.

The petitioner indicates that in 2002 [Redacted] was purchased for $95,000. A schedule of the use of the [Redacted] was submitted. During 2002, the use included [Redacted]. The questions to be resolved with regard to this issue are which, if any, of these uses constitute deductible expenses for the petitioner.

The costs of business use of [Redacted] are deductible. However, the costs of [Redacted] been held to be a nondeductible item. Johnston v. Commissioner, T.C. Memo. 1976-20; Gibson Products Co., Inc. v. Commissioner, 8 T.C. 654 (1947). In the Tax Court's decision in Knudtson v. Commissioner, T. C. Memo 1980-455, the Court held that the cost of obtaining an instrument rating

1[Redacted]
2 [Redacted]

was business use of the [Redacted]. The difference between the holdings appears to have been the extent to which the [Redacted] were otherwise used for business purposes.

It would seem appropriate to treat the costs of obtaining maintenance on the [Redacted] in a manner similar to other costs, e.g. using the percentage of business use to govern the amount allowable. In the case at hand, by the end of the audit period (December 31, 2002), it is less than clear to what extent the petitioner would use the [Redacted]e for such purposes. [Redacted]. A somewhat similar situation was presented for the Court's decision in Johnston, supra. In that case, the petitioner indicated that he had engaged in business activities but failed to present documentation to further support his testimony. The Court found that the petitioner had failed to carry his burden of proof with regard to that issue.

To be deductible, a business expense must be reasonable in amount in relation to its purpose. Noyce v. Commissioner, 97 T.C. 670 (1991); Sherman v. Commissioner, T.C. Memo. 1982-582; Harbor Medical Corp. v. Commissioner, T.C. Memo. 1979-291, affd. without published opinion 676 F.2d 710 (9th Cir.1982). We examine the facts and circumstances of the particular case to determine whether an expense is ordinary and necessary. Palo Alto Town & Country Village, Inc. v. Commissioner, 565 F.2d 1388, 1390; Noyce v. Commissioner, supra at 686-688. It appears that the[Redacted] was purchased near the end of August 2002. From that time to the end of 2002, the record indicates that, other than training and maintenance, [Redacted] for a business purpose. The Commission finds that the petitioner has failed to carry its burden of showing that these expenditures are reasonable. Accordingly, the expenses incurred with regard to the [Redacted] are denied.

WHEREFORE, the Notice of Deficiency Determination dated September 28, 2005, is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED, AND MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed.

DATED this ________ day of ___________________, 2008.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ________ day of ___________________, 2008, 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.

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