BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 20799
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
	)	

On October 3, 2007, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing additional income tax and interest for taxable year 2003 in the total amount of $5,323.

On November 23, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to submit additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) selected the taxpayer's 2003 Idaho individual income tax return for the examination of his itemized deductions and his Schedule C sole-proprietorships. The Bureau completed its examination, reviewed its findings with the taxpayer, and sent the taxpayer a Notice of Deficiency Determination. The Bureau disallowed the taxpayer's cost of goods sold as claimed on his Schedule C [Redacted] the miscellaneous deductions claimed on his Schedule A. The Bureau also adjusted the total value of contributed property the taxpayer claimed as a charitable contribution on his Schedule A.

The taxpayer agreed with most of the Bureau's determination; however, he did not agree with the Bureau's valuation of the contributed property. The taxpayer believes the property had a considerably higher value than what the Bureau allowed. The taxpayer stated he had the property appraised and even that value was less than the property's true value. He stated the appraisal should not have used depreciated values in its valuation, but since it did, the depreciation should be deductible.

The Bureau explained that for income tax purposes the value of the property was not as important as the method used to determine the property's value. The Bureau stated that ultimately it would be the taxpayer's income that determined how much of the contribution could be utilized. Nevertheless, the Bureau and the taxpayer could not agree, so the matter was referred for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not want a hearing and asked that the Tax Commission include the additional information he provided with his protest letter when making its redetermination. The Tax Commission, not fully satisfied the taxpayer understood the particulars of the Bureau's adjustment, continued to correspond with the taxpayer wherein the taxpayer provided more information.

In 2001, the taxpayer began acquiring property in Northern Idaho [Redacted]. He acquired contiguous parcels totaling just over ten acres. [Redacted]. The taxpayer organized a non-profit corporation, obtained 501(c)(3) recognition from the Internal Revenue Service, and in 2003, contributed most of the property to the non-profit corporation.

On his 2003 individual income tax return, the taxpayer claimed a charitable contribution for the donation of the property to the non-profit corporation. His total contribution was the maximum amount allowable based upon the 50 percent limitation amount allowed for his contribution base (federal adjusted gross income). See Internal Revenue Code section 170. The excess contribution was carried forward to be utilized in the subsequent five years. In addition to the charitable contribution deduction for the property, the taxpayer also claimed a miscellaneous deduction for depreciation of the contributed property.

The Bureau's examination of the taxpayer's Schedule A included the verification of the contributed property's value. What the Bureau found was that the taxpayer claimed an appreciated value of the property but claimed a deduction based on the higher percentage allowance for the cost of the property. The Bureau reviewed the differences between the cost method and the appreciated value method for placing a value on the property and determined it was more advantageous for the taxpayer to use the cost method. Therefore, the Bureau allowed the contribution claimed but adjusted the value of the property for purposes of the excess contribution carryover.

Internal Revenue Code (IRC) section 170(b)(1)(C)(i) states that the contribution of capital gain property cannot exceed 30 percent of the donor's contribution base. The taxpayer claimed 50 percent. IRC section 170(b)(1)(C)(iii) allows the taxpayer to elect to reduce the amount of his contribution in order to use the 50 percent ceiling on capital gain property. The effect of this election is to limit the taxpayer's donation to his basis in the property contributed.

From the information available, it appears the Bureau verified at least $157,073 of acquisition and improvement costs for the property donated. The taxpayer argued the property's value was higher even though the appraisal came in at less than the Bureau's number. The taxpayer believes that the appraised value should include or he should be allowed to deduct the depreciated replacement cost as determined in the appraisal.

However, the taxpayer has provided nothing to show the property had a market value greater than that reported in the appraisal. As for the depreciated replacement cost reported in the appraisal, depreciation is just one of the components of the various methods the appraiser used to determine a value. For tax purposes, depreciation is a deduction for wear and tear on business assets. It is not a deduction that is available on non-business property. However, in an appraisal, depreciation is used to show wear and tear on the property from a new state to its current state. This type of depreciation cannot be deducted as a contribution or as a miscellaneous deduction on Schedule A.

The taxpayer believes the property had more value and that a greater value would benefit him. However, for tax purposes, this is just not the case. Charitable contributions are limited for individuals as determined by their contribution base (federal adjusted gross income) and the applicable percentage for the contribution made. (IRC section 170.) In this case, the taxpayer's contribution base absorbed less than 41 percent of the excess contribution in the succeeding four years. Therefore, unless the taxpayer has a substantial increase in his income in the fifth year, he will lose between 30 percent and 40 percent of his 2003 contribution. If the value of the property donated was higher, the taxpayer would lose an even greater percentage of his charitable contribution.

Since there is nothing to show that the property's appreciated value was greater than the amount established as the taxpayer's basis in the property, the Tax Commission finds that the Bureau's determination was correct and the Notice of Deficiency Determination should be upheld.

WHEREFORE, the Notice of Deficiency Determination dated October 3, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest (computed to 12/15/2008):

YEAR	TAX	INTEREST	TOTAL
2003	$4,325	$1,297	$5,622

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

An explanation of the taxpayer'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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