

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 21028
[Redacted],	)	
	)	DECISION
Petitioners.	)	
	)	
	)	
_____	)	

[Redacted] [Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated November 9, 2007. The Notice of Deficiency Determination asserted additional liabilities for Idaho income tax, penalties, and interest in the total amounts of \$2,038, \$2,850, \$3,471, and \$1,734 for 2000, 2002, 2003, and 2004, respectively.

The petitioners did not request an informal conference. They also did not supply additional documentation to support their positions. Therefore, the Commission now renders their determination based upon the information in the file.

The petitioners have raised several issues as follows:

1. They contend that they have not been given the benefit of the tax withheld from their income,
2. They contend that they installed a solar energy system in 2000 for which proper benefit was not allowed in the Notice of Deficiency Determination,
3. They contend that they had a bad debt in the amount of \$30,000 in 2000,
4. They contend that they should be allowed a deduction for the expense of [Redacted] commuting to his job in 2003, and
5. They contend that payment of the amount of the deficiency would be an extreme financial hardship.

All of the petitioners' contentions had to do with the allowance of deductions. The law is well established that the taxpayer has the burden of proof with regard to the allowance of deductions:

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).

With regard to several of the issues, the petitioners may have been entitled to some benefit had they presented documentation to support their positions.

The Commission has sent to the petitioners a summary of the withholding that had been credited to them and invited them to send additional information to support their claim that they were entitled to additional credit for withheld income tax. The petitioners did not submit any such material. Therefore the Commission finds, based upon the record, that the issue was properly addressed in the Notice of Deficiency Determination.

The petitioners contend that they installed a solar system for the generation of electricity. They again supplied no additional documentation to support their position. While the petitioners may well have been entitled to some benefit, they have failed to support their position with regard to this issue. Therefore, the Commission finds that the petitioners are not entitled to any such benefit.

The petitioners contend that in 2003, [Redacted] commuted some 100 miles per day to get to work. They contend that the travel expense should be deductible. Again, the petitioners did not supply sufficient information to be able to discern how many days he commuted or the amounts of any compensation or reimbursement that the petitioner may have received with regard to this travel.

Based upon the information in the file, the Commission finds that the petitioners have failed to carry their burden of proof that they were entitled to a deduction. Therefore, no deduction is allowed.

As a general matter, commuting expenses are not deductible. Commissioner v. Flowers, 326 U.S. 465, 66 S.Ct. 250 (1946). While some of the expenses for his vehicle may have been deductible, the petitioners have not provided the necessary information to be able to determine such an amount.

The petitioners contend that they incurred a deductible bad debt in the amount of \$30,000 in 2000. The Commission asked for additional information to support this claimed deduction including the name of the borrower, proof of worthlessness, the date the loan was made, and the borrowers' relationship, if any, to them. The petitioners supplied no such information. Therefore, the Commission finds that the petitioners are not entitled to this deduction.

The petitioners contend that payment of the deficiency would amount to an extreme financial hardship. The Commission sent the petitioners a financial statement form that they might complete to allow the Commission to make a determination of whether this would, indeed, constitute such a hardship. The petitioners did not complete and return the financial statement form. Therefore, the Commission cannot conclude that a hardship exists.

WHEREFORE, the Notice of Deficiency Determination dated November 9, 2007, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$1,211	\$303	\$598	\$ 2,112
2002	1,850	463	652	2,965
2003	2,334	584	699	3,617
2004	1,215	304	291	<u>1,810</u>
			TOTAL DUE	<u>\$10,504</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 enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
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.

\_\_\_\_\_