

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22464
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated November 18, 2009, denying requested refunds in the amounts of \$397, \$587, and \$4, for 2003, 2004, and 2005, respectively, and asserting additional liabilities for Idaho income tax, penalty, and interest in the total amounts of \$359, \$371, and \$762 for 2003, 2004, and 2005, respectively.

The petitioners filed original and amended returns for the years at issue as follows:

	<u>2003</u>	<u>2004</u>	<u>2005</u>
Initial return	10/15/04	4/15/05	8/14/06
Amendment #1	10/09/07	4/15/08	12/22/08
Amendment #2	11/03/08	4/15/09	5/11/09
Amendment #3			4/15/09

Each of the amended returns reflected additional expenses or losses. The auditor for the Commission requested documentation from the petitioners to support their claimed deductions. The petitioners responded that they had destroyed their records. They later indicated that they might be able to supply records if given an extended period of time in which to reconstruct those records.

The auditor sent his initial letter to the petitioners seeking the documentation on August 11, 2009. The petitioners have had a considerable amount of time in which to put their records in order and submit them. The Commission finds that adequate time has been allowed

for this without discernable progress. Therefore, the Commission now renders its determination based upon the information in the file.

The U.S. Supreme Court stated:

Whether and to what extent deductions shall be allowed depends upon legislative grace; and only as there is clear provision therefore 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.¹

The petitioners had the burden of proving that they were entitled to the deductions they sought. They failed to carry their burden.

WHEREFORE, the Notice of Deficiency Determination dated November 18, 2009, 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 September 15, 2010):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$255	\$13	\$ 99	\$ 367
2004	275	14	90	379
2005	592	30	159	<u>781</u>
				<u>\$1,527</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 _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

¹ New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440 (1934); *see also* Appeal of Sunny Ridge Manor, Inc., 106 Idaho 98, 675 P.2d 813 (1984); Bistline v. Bassett, 47 Idaho 66, 272 P. 696 (1929).

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2010, 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.
