

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

|                                 |   |                  |
|---------------------------------|---|------------------|
| In the Matter of the Protest of | ) |                  |
|                                 | ) | DOCKET NO. 24027 |
| [Redacted],                     | ) |                  |
|                                 | ) |                  |
| Petitioners.                    | ) | DECISION         |
| _____                           | ) |                  |

[Redacted] (taxpayers) protested the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated May 4, 2011. The Notice of Deficiency Determination (NODD) asserted an additional liability for Idaho income tax and interest in the total amount of \$408.

The taxpayers replaced their diesel furnace in 2008 and claimed the alternative energy device deduction on their 2008 income tax return. The issue is whether the system purchased by the taxpayers qualifies for the deduction under the provisions in Idaho Code § 63-3022C.

Idaho Code § 63-3022C stated, in pertinent part:

(3) As used in this section, "alternative energy device" means any system or mechanism or series of mechanisms using solar radiation, wind or geothermal resource as defined in section 42-4002, Idaho Code, primarily to provide heating, to provide cooling, to produce electrical power, or any combination thereof. Alternative energy device includes a fluid to air heat pump operating on a fluid reservoir heated by solar radiation or geothermal resource. Alternative energy device shall also include either a natural gas heating unit, or a propane heating unit, or a wood burning stove which meets the most current environmental protection agency certification, or a pellet stove which meets the most current industry and state standards, and which natural gas heating unit, or propane heating unit, or wood burning stove which meets the most current environmental protection agency certification, or pellet stove which meets the most current industry and state standards is used to replace during the same tax year a wood burning stove designed for residential heating and that does not meet environmental protection agency requirements for certification, provided the wood burning stove is surrendered to the department of environmental quality or its agent for destruction in accordance with applicable federal and state rules.

The only alternative energy device deductions allowable are those listed in the Idaho Code. The electric system purchased by the taxpayers is not among those listed. The deduction was therefore disallowed by the auditor, and an NODD issued.

The taxpayers protested the NODD stating that the, ““alternative energy device listed under Idaho Code Sec. 63-3022C” does not [sic] make any sense to me ... If the replacement of a diesel fired furnace with an electric heat pump/A.C. system is not allowed why should a natural gas unit with Electric A.C. unit be allowed? Why would a wood burning or pellet stove, both of which produce CO<sub>2</sub> and CO be judged to be a better choice than clean non-polluting water generated electrical units?””

Unfortunately for the taxpayers, the electric system they purchased does not qualify as an alternative energy device under Idaho Code § 63-3022C. However, the law must be followed as written. If the law is socially or economically unsound, the power to correct it is legislative, not within the powers of the Tax Commission. John Hancock Mutual Life Insurance Co. v. Neill, 79 Idaho 385, 319 P.2d 195 (1957).

THEREFORE, the Notice of Deficiency Determination dated May 4, 2011, and directed to [Redacted] is AFFIRMED.

IT IS ORDERED that the taxpayers pay the following tax and interest (computed to December 30, 2011):

| YEAR | TAX   | INTEREST | TOTAL |
|------|-------|----------|-------|
| 2008 | \$369 | \$46     | \$415 |

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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

IDAHO STATE TAX COMMISSION

---

COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2011, 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.