

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 24581
)
)
Petitioner.) DECISION
)
_____)

On September 21, 2011, the Income Tax Audit Bureau (Audit) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing additional individual income tax, penalty, and interest in the total amount of \$1,645 for taxable years 2008 and 2009.

The taxpayer filed a timely appeal and petition for redetermination. The taxpayer requested an informal conference which was held telephonically on May 7, 2012. Prior to the hearing, the taxpayer submitted additional information for the Commission’s consideration. The Commission has reviewed the file and hereby issues its decision.

Audit selected the taxpayer’s 2008 and 2009 Idaho income tax returns for review. The taxpayer’s [Redacted] and state returns and the accompanying schedules were examined. Audit asked the taxpayer to provide documentation to support the alternative energy device deduction and the insulation deduction claimed in taxable years 2008 and 2009. The taxpayer responded stating that all records pertaining to taxable years 2008 and 2009 had been destroyed when the storage shed where they were kept collapsed under a heavy snow load. Audit was able to obtain some general information from the taxpayer such as the construction year of the residence but no substantiation for the deductions.

Audit determined the taxpayer was not entitled to the deductions and issued him an NODD. The taxpayer submitted a timely protest. Included with his protest was information

pertaining to the alternative energy device. The information provided appears to be the front page of the devices owner's manual, but nothing to document the amount paid for the device or when it was installed. The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

The taxpayer responded to a letter advising him of his appeal rights and requested an informal conference. Prior to the informal conference, the taxpayer provided some invoices, along with a "Home Improvement Agreement," from various building supply stores such as Home Depot and Lowe's. The agreement and accompanying invoices were dated November 18, 2008. The taxpayer was asked during the informal conference to help clarify some of the items described on the invoices and to explain the agreement as the information was not categorized and the only notation was on the front of a fax that stated, "These are invoices for windows & doors for energy efficiency stuff." The taxpayer was not certain what some of the invoices were for but did explain the agreement, and the merchandise listed in the agreement, was part of a contract to remodel a portion of his home.

In each of the income tax returns under review, the taxpayer claimed credit for an alternative energy device. However, the taxpayer provided no receipts to substantiate the deductions. Idaho Code § 63-3022C allows a deduction for the purchase and installation of certain alternative energy devices:

63-3022C. Deduction for alternative energy device at residence. -- (1) An individual taxpayer who installs an alternative energy device to serve a place of residence of the individual taxpayer in the state of Idaho may deduct from taxable income the following amounts actually paid or accrued by the individual taxpayer: forty percent (40%) of the amount that is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of the alternative energy device in the year when such device is completed or acquired and is placed in service by the taxpayer; and twenty percent (20%) per year thereafter for a period of three (3) succeeding years; provided, however, that said deduction shall not exceed five thousand dollars (\$5,000) in any one (1) taxable year.

(2) An individual taxpayer who purchases a residence in the state of Idaho served by an alternative energy device, for which none or less than all of the total deduction allowable under this section has been taken, may take the deduction specified in this section, or the unused balance of the deduction.

(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. (Emphasis added.)

However, deductions are a matter of legislative grace, and the taxpayer bears the burden of showing that each deduction is allowable by statute. New Colonial Ice Co. v. Helvering, 292 U.S. 435, 54 S.Ct. 788 (1934); Higgins v. C.I.R., T.C. Memo. 1984-330, (1984). The taxpayer did not provide any documentation or support for his deductions. He has not met his burden of record keeping. Therefore, absent any information to substantiate the deductions disallowed by Audit, the Commission must uphold Audit's determination. The deduction for installation of an alternative energy device must be denied.

Idaho Code § 63-3022B provides a deduction for insulation of residences as follows:

63-3022B. Deduction for insulation of residences. For taxable years commencing on and after January 1, 1976, an individual taxpayer may deduct from taxable income an amount actually paid or accrued by the individual taxpayer during the taxable year for the actual installation, but not replacement, of insulation within any existing building in the state of Idaho which serves as a place of residence of the individual taxpayer. As used in this section, "insulation" means any material commonly used in the building industry and actually installed for the purpose of retarding the passage of heat energy into or out of a building,

including but not limited to, such items as fiberglass insulation, weather stripping, double pane windows, and storm doors and windows. As used in this section, "existing building" means any building in being, under construction, or subject to an outstanding legal building permit on the effective date of this act.

On November 10, 2008, the taxpayer was issued a building permit by [Redacted] County which would be consistent with the taxpayer's statement concerning the remodeling of his home. According to the county, the permit was for an addition/alteration that would add 586 square feet of habitable space and 62 square feet of deck. The Special Services Customer Invoices that accompanied the Home Improvement Agreement shows a total amount due for all merchandise and services. Because the windows in the addition to the home would not qualify, based on the above statute, the taxpayer was asked to identify on the invoices which windows were for the addition and which replaced windows in the original structure. The taxpayer responded, "It is my recollection that all the windows and doors were changed in the home at the time of remodel."

While the taxpayer did provide some invoices that showed what appeared to be windows that may qualify for the insulation deduction, the taxpayer failed to specifically identify which windows were used in the original structure. The taxpayer claimed an insulation deduction in the amount of \$9,543 for taxable year 2008 and \$3,399 for taxable year 2009 but has failed to provide adequate substantiation to verify these amounts. Again, the taxpayer has not met his burden of record keeping.

THEREFORE, the Notice of Deficiency Determination dated September 21, 2011 and directed to [Redacted], is AFFIRMED.

IT IS ORDERED that the taxpayer pay the following tax and interest for taxable years 2008 and 2009:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$928	\$149	\$1,077
2009	566	62	<u>628</u>
		TOTAL DUE	<u>\$1,705</u>

Interest is computed through November 12, 2012.

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 _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.
