

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 24485
[Redacted],	)	
	)	
Petitioners.	)	DECISION
	)	
	)	
_____	)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated August 5, 2011, asserting additional income tax and interest in the total amount of \$1,410 for taxable year 2009. Petitioners disagreed with the Income Tax Audit Bureau’s adjustments to their deductions for retirement benefits, medical expenses, and insurance premiums. Petitioners did not respond to the Tax Commission’s hearing right letter and have not provided any additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

**BACKGROUND**

Petitioners’ timely filed their 2009 Idaho individual income tax return. The Income Tax Audit Bureau (Bureau) selected Petitioners’ return for review because the [Redacted] adjusted gross income carried over to their Idaho return did not agree with the [Redacted] adjusted gross income reported on their [Redacted] income tax return. Upon further review, the Bureau found Petitioners claimed a retirement benefits deduction on a non-qualifying retirement plan. In addition, the Bureau decided to examine Petitioners’ claimed medical expenses and medical insurance deductions.

The Bureau sent Petitioners three letters asking them to document the selected items on their Idaho income tax return. Petitioners failed to respond to any of the letters. Since Petitioners did not respond, the Bureau reviewed the information available, determined Petitioners retirement benefits did not qualify for the deduction, corrected Petitioners’ [Redacted]

adjusted gross income to agree with the amount reported on their federal income tax return, and disallowed Petitioners' medical expenses and health insurance deductions as being unsubstantiated. The Bureau adjusted Petitioners' Idaho income tax return and sent them a Notice of Deficiency Determination.

Petitioners protested stating they disagreed with the Bureau's determination. Petitioners stated the [Redacted] reviewed their 2009 [Redacted] income tax return and made some changes. Petitioners provided an amended Idaho income tax return that showed the correction made by the [Redacted]. Petitioners also provided documentation for the medical expenses and health insurance deduction.

The Bureau reviewed the information provided and modified its original audit report. The Bureau sent Petitioners its modified determination and asked for a protest withdrawal statement if they agreed with the revised deficiency. Petitioners did not respond, so the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayers a letter that discussed their options in the administrative review process. The taxpayers did not respond, so the Tax Commission decided the matter based upon the information available.

### **LAW AND ANALYSIS**

Idaho Code section 63-3002 states the intent of the Idaho legislature to make the provisions of the Idaho income tax act identical to the provisions of the Internal Revenue Code relating to the measurement of taxable income, subject only to modifications contained in the Idaho law. Therefore, federal adjusted gross income is used as a starting point in the determination of Idaho taxable income, and the Bureau was correct in adjusting Petitioners' Idaho income tax return for the discrepancies between the two amounts.

Idaho Code section 63-3022A provides for a deduction of certain retirement benefits. The Bureau adjusted Petitioners' 2009 return because Petitioners' retirement benefits did not qualify for the deduction. To qualify, the individual receiving the retirement benefits must be age 65 or older, or age 62 and classified as disabled. In addition, the retirement benefits must be paid by the United States of America to a retired civil service employee; by the firemen's retirement fund of the state of Idaho to a retired fireman; by the policemen's retirement fund of a city within Idaho to a retired policeman; or by the United States of America to a retired member of the military services of the United States. Petitioners' retirement benefits were not from any of these sources. The adjustment to the retirement benefits deduction was appropriate.

Deductions are a matter of legislative grace, and it is the taxpayer's responsibility to show his entitlement to a deduction. INDOPCO, Inc. v. Commissioner, 503 U.S. 79, 84, 112 S. Ct. 1039, 117 L.Ed.2d 226 (1992); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, 54 S. Ct. 788, 78 L. Ed. 1348 (1934). Petitioners documented and substantiated some of the medical expenses claimed on their schedule A – Itemized Deductions. Petitioners also documented and substantiated most of their health insurance costs for 2009. However, because all the expenses and deductions were not documented or substantiated, only those expenses documented can be allowed. The Bureau's modified report allowed only the expenditures Petitioners documented.

### **CONCLUSION**

A State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). Petitioners documented the expenses they incurred but did not document all the expenses they

claimed. Therefore, the Bureau was correct in adjusting Petitioners' Idaho income tax return for the undocumented expenses claimed.

The Bureau added interest to Petitioners' Idaho income tax deficiency. The Tax Commission reviewed that addition and found it appropriate and in accordance with Idaho Code section 63-3045.

THEREFORE, the Notice of Deficiency Determination dated August 5, 2011, and directed to [Redacted] is AFFIRMED AS MODIFIED.

IT IS ORDERED that Petitioners pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$928	\$113	\$1,041

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 \_\_\_\_\_ 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.  
  
\_\_\_\_\_