

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25381
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On October 4, 2012, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers), proposing additional income tax, penalty, and interest for the taxable years 2008, 2009, and 2010 in the total amount of \$10,553.

The Income Tax Audit Bureau (Bureau) selected the taxpayers' 2008 through 2010 Idaho income tax returns for examination. The audit issues included Idaho taxable income, Schedule A-itemized deductions, Health Insurance Premiums, Long Term Care Insurance, State Income Tax Refund, Grocery Credit, and the Permanent Building Fund Tax. The Bureau reviewed income information available in Commission records, [Redacted] information received from [Redacted], along with documentation provided by taxpayers, and made adjustments to each of the taxpayers' returns.

The Bureau sent the taxpayers an NODD for each year. The taxpayers agreed with the adjustments made by the Bureau with the exception of the disallowance of the home office expense. The taxpayers submitted a timely appeal stating the home office was established many years ago and meets [Redacted] requirements for a home office deduction. The Bureau acknowledged the taxpayers' appeal and forwarded their file to the Legal/Tax Policy Division for administrative review.

The tax policy specialist sent the taxpayers a letter giving them two alternative methods for having the NODD redetermined. The taxpayers responded and requested an informal hearing. The hearing took place telephonically on February 12, 2013, with the majority of the discussion being the taxpayers explaining the nature of their business and its history. No additional documentation was provided. The Commission, having reviewed all information contained in the file, hereby issues its decision.

IRC Section 280A(c) (1) (A) allows a taxpayer to deduct expenses related to his home office if the home office is used exclusively on a regular basis (a) as the principal places of business, (b) as a place of business where he meets or deals with patients, clients, or customers, or (c) is a separate structure detached from his residence. Exclusively means that the taxpayer must use the area of his home only for conducting business, not for personal purposes. Regular use means the taxpayer must use the exclusive business area on a continuous basis, not occasional or incidental. In case of an employee, such expenses are deductible only if the exclusive and regular use of the portion of the residence is for the convenience of the employer.

Exclusive use of a portion of a taxpayer's dwelling unit means that the taxpayer must use a specific part of a dwelling unit solely for the purpose of carrying on his trade or business. The use of a portion of a dwelling unit for both personal purposes and carrying on of a trade or business doesn't meet the exclusive use test. In determining whether this test has been met, the presence or absence of furniture and fixtures suited only for business use, or suited for both business and personal use, is often a significant factor.

In the present case, for taxable years 2008, 2009 and 2010, the taxpayers claimed that 35 percent, 40 percent, and 35.80 percent respectively, of their 2400 square foot residence was used regularly and exclusively for business purposes. In arriving at these business use percentages, the

taxpayers included the following portions of the home, the upstairs loft, upstairs foyer, upstairs bath, downstairs corner and the garage. The taxpayers provided photographs of these portions of the house in support of their claims of exclusive use. The upstairs loft (main office) contained household furniture such as a couch, luggage, clothing, beds and a television. The upstairs foyer (storage room) contained two cabinets, an entry way mirror and a couch. Personal items such as family photos and board games were among the items stored on the cabinets. The downstairs corner (secretary office) contained numerous pieces of household furniture along with a computer and other office equipment. The photo of the attached garage showed only the exterior. According to the taxpayers the garage was used for storage of inventory.

To substantiate the home office deduction, in addition to the photographs, the taxpayers also provided copies of utility bills, mortgage interest statements, business use of home worksheets, property tax statements and a letter from the president of the company Mr. [Redacted] works for. The letter states that the taxpayer is required to maintain a home office and conduct business from it on a regular basis. Mr. [Redacted] is employed by [Redacted]., of which he is a 100 percent shareholder and president. [Redacted] has only one employee, [Redacted].

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 taxpayers have not met their burden. The pictures provided by the taxpayers reflected a residence essentially like any other in that it contained household furniture such as tables, chairs, couches that would be suitable for personal residence use. Therefore, absent proof that the portions of house were

exclusively and regularly used for business, the Commission must uphold the Bureau's determination.

THEREFORE, the Notice of Deficiency Determination dated October 4, 2012, is hereby AFFIRMED, and MADE FINAL.

IT IS ORDERED that the taxpayers pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$5,655	\$283	\$1,034	\$6,972
2009	1,817	91	241	2,149
2010	1,411	71	121	<u>1,603</u>
			TOTAL DUE	<u>\$10,724</u>

Interest is calculated through July 26, 2013.

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 _____ 2013.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2013, 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.
