

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25820
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On May 9, 2013, the Idaho State Tax Commission’s (Commission) Income Tax Audit Bureau (ITA) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing additional income tax, penalty, and interest for taxable year 2011 in the total amount of \$19,677. The petitioner filed a timely petition for redetermination and subsequently provided additional information that compelled ITA to adjust the original NODD. A modified audit report was sent to the petitioner, reducing the amount sought from \$19,677 to \$16,103. The petitioner remained in disagreement with the NODD and his file was forwarded to the Legal/Tax Policy Division for continuation of the appeals process.

The Commission sent the petitioner a letter giving him two alternative methods for having the NODD redetermined. The taxpayer did not respond. Therefore, the Commission decided the matter based upon the information available.

In June 2012, the petitioner submitted for processing, an amended 2011 Idaho individual income tax return to increase his gambling losses, claim Form 2106 expenses, increase property taxes paid, and to remove his Schedule E, as the property is now investment property. ITA

reviewed the amended return, along with the original return, and decided further examination of certain items was warranted. The issues examined were:

1. Gambling losses
2. Unreimbursed business expenses
3. Casualty loss
4. Real estate taxes paid
5. Miscellaneous unreported income
6. Discharge of indebtedness
7. Gift from employer
8. Unemployment income
9. Use tax

The amended return increased the amount of refund due petitioner and on November 27, 2012, the petitioner phoned the Commission inquiring about the status of his refund. Petitioner was referred to ITA, where he was informed a letter had been sent out earlier in the day that requested additional information to support the amended return. In an effort to speed up the review process the petitioner was willing to answer some of ITA questions over the phone. The petitioner also provided additional documentation in response to ITA's letter.

ITA reviewed all of the information provided by the petitioner and conducted additional research. Because the information provided by the petitioner did not adequately substantiate all of the expenses claimed, ITA issued an NODD on May 9, 2013.

The petitioner filed a petition for redetermination in July 2013 and subsequent to the filing of the petition, provided some additional information related to the gift from his employer.

As a result of the additional information, the ITA sent a modified audit report to the petitioners which resulted in a reduction of the amount sought from \$19,677 to \$16,103.

Information in the file indicates ITA made several attempts to secure additional documentation from the petitioner to support the claimed deductions for the expenses/losses shown on the return. ITA, unsuccessful in its attempts to acquire the remaining requested information, forwarded the petitioner's petition for redetermination to the Commission's Policy and Legal Department for resolution. On September 30, 2013, the petitioner was sent a letter informing him of his appeal rights. The petitioner did not respond and has provided nothing further for the Commission's consideration.

Taxpayers bear the burden of proof with regard to deductions. The U. S. Supreme Court addressed this issue as follows:

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

New Colonial Ice Co. Inc. v. Helvering, 292 U.S. 435, 440, 54 S.Ct. 788, 790 (1934).

The petitioner in this matter has not provided the requested documentation; he has failed to carry his burden of proof.

THEREFORE, the Notice of Deficiency Determination dated May 9, 2013, and directed to [Redacted], as modified by the subsequent aforementioned audit report, is hereby AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX DUE</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2011	\$14,689	\$378	\$512	\$15,579
			LESS REFUND HELD	<u>\$(7,131)</u>
			TOTAL DUE	<u>\$8,448</u>

Interest is calculated through March 28, 2014.

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

An explanation of the petitioner's 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.
