

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25477
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] and [Redacted] (Petitioners) protested the Notice of Deficiency Determination dated November 8, 2012, for taxable year 2008 denying Petitioners' claim for refund in the total amount of \$1,603. Petitioners disagreed that the [Redacted] denied their amended return, but rather, the IRS had yet to process their 2008 amended [Redacted] income tax return. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The Income Tax Audit Bureau (Bureau) received information from the [Redacted] that Petitioners' 2008 [Redacted] income tax return was audited and adjusted. The Bureau made the same changes to Petitioners' 2008 Idaho income tax return and sent them a Notice of Deficiency Determination on July 21, 2011. Petitioners paid the deficiency amount, and on April 15, 2012, Petitioners filed an amended 2008 return claiming additional depreciation resulting in a refund to Petitioners.

The Bureau reviewed Petitioners' amended return and denied the refund claim on the basis that Petitioners did not amend their 2008 [Redacted] income tax return. Petitioners protested, stating an amended return was filed with the [Redacted]. The Bureau reviewed Petitioners' [Redacted]account transcript, which showed an amended return was filed on two different dates, but neither amended return was acted upon by the [Redacted]. The Bureau determined that since the [Redacted] had not acted upon the amended returns, the amended

returns were not accepted and, therefore, denied by the [Redacted]. Nevertheless, the Bureau acknowledged Petitioners' protest and referred the matter for administrative review.

The Tax Commission sent Petitioners a letter stating that their case had been transferred for administrative review and that the matter would be put on hold pending a final [Redacted] determination, provided they could show the matter was still being considered by the [Redacted]. Petitioners did not respond to the Tax Commission's letter; nevertheless, the Tax Commission put the matter on hold for a few months.

After more than a few months, the Tax Commission obtained an updated account transcript for Petitioners from the [Redacted]. The transcript showed Petitioners were still making payments on the [Redacted] audit, but there was no adjustment to Petitioners' [Redacted] taxable income. The transcript also showed Petitioners' 2008 [Redacted] return was being examined again.

The Tax Commission sent Petitioners a letter asking them, once again, to provide information on their [Redacted] amended return and the examination the [Redacted] was currently undertaking. Petitioners again did not respond. Seeing that Petitioners had ample time and opportunity to provide the requested information to the Tax Commission, but have failed to do so, the Tax Commission decided this matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3002 states the intent of the Idaho Legislature regarding the Idaho Income Tax Act. It states that the Idaho Act is to be identical to the Internal Revenue Code as it relates to the measurement of taxable income, in so much as that the taxable income reported to Idaho is the same as the that reported to the [Redacted], subject to the modifications contained in

the Idaho law. Therefore, any changes to Petitioners' [Redacted] taxable income should also be made to Petitioners' Idaho taxable income.

In the July 21, 2011 Notice of Deficiency Determination, the Bureau adjusted Petitioners' 2008 Idaho individual income tax return to correspond with the audit adjustments made by the [Redacted]. On April 15, 2012, the Tax Commission received Petitioners' 2008 amended Idaho income tax return. Petitioners' amended income tax return was to claim depreciation not previously claimed on Petitioner's original income tax return. Depreciation was not adjusted in the [Redacted] audit of Petitioners' 2008 [Redacted] income tax return.

Generally, when the Tax Commission receives information from the [Redacted] that an audit adjustment was made to a taxpayer's [Redacted] income tax return, the Tax Commission follows the [Redacted] audit and does not deviate from the audit adjustments made, unless there is a modification in the Idaho Code. If a taxpayer protests the corresponding Idaho adjustments, the Tax Commission requires verification the [Redacted] changed its audit adjustments. However, in this case, Petitioners did not protest the [Redacted] audit changes made to their Idaho income tax return. In this case, Petitioners amended their Idaho return for depreciation that was not reported on their original income tax return.

The Tax Commission reviewed Petitioners' amended return and found, under normal circumstances, the amended return would have been processed without question. However, because Petitioners' return was examined by the [Redacted] and adjustments were made to Petitioners' schedule C business, where the additional depreciation is claimed, Petitioners' amended Idaho return came under scrutiny. The Tax Commission asked Petitioners to provide documentation showing the [Redacted] reviewed and accepted their amended [Redacted] income

tax return. Petitioners were given two opportunities and more than sufficient time to comply with the Tax Commission's request; nevertheless, Petitioners did not respond.

CONCLUSION

Petitioners' 2008 [Redacted] income tax return was audited and adjusted by the [Redacted]. Those same adjustments were made to Petitioners' 2008 Idaho income tax return. Petitioners subsequently filed an amended Idaho income tax return amending their schedule C business for additional depreciation. Because the Tax Commission does not know if the [Redacted] examined Petitioners' depreciation during its audit of Petitioners' 2008 [Redacted] return, the Tax Commission is reluctant to allow Petitioners the additional depreciation when the additional depreciation should have been addressed during the [Redacted] examination.

If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S. Ct. 413 (1931). Petitioners failed to provide any information regarding the additional depreciation claimed. The information available to the Tax Commission shows Petitioners' [Redacted] taxable income has not changed since the [Redacted] examined Petitioners' [Redacted] income tax return. Therefore, the Tax Commission hereby upholds the Bureau's determination denying Petitioners' amendment for the additional depreciation.

THEREFORE, the Notice of Deficiency Determination dated November 8, 2012, and directed to [Redacted] and [Redacted] is AFFIRMED.

Since Petitioners' amended return claimed a refund and that refund is denied, no order for payment is necessary or required.

<u>YEAR</u>	<u>REFUND CLAIMED</u>	<u>REFUND ALLOWED</u>	<u>TOTAL</u>
2008	\$1,603	\$0	\$0

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

DATED this _____ day of _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.