

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 25840  
Petitioner. ) DECISION  
\_\_\_\_\_ )

On May 13, 2013, 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 \$3,005 for taxable year 2009.

The taxpayer filed a timely appeal and petition for redetermination. The taxpayer stated, in her appeal letter, that the NODD was incorrect because she was only a resident of Idaho for three months in 2009, and the income figure used to calculate the additional tax due included income not earned in Idaho. Audit acknowledged the taxpayer’s appeal and again requested documentation to support the amounts claimed for the “Other Subtraction” on Idaho form 39NR and for the Unreimbursed Employee Expenses claimed on Schedule A, the basis for the audit. The taxpayer did not provide the information requested. The taxpayer’s file was transferred to the Legal/Tax Policy Division for administrative review. The Commission sent the taxpayer a letter informing her of the options available for redetermining a protested NODD. The taxpayer did not respond and has provided no additional information for the Commission’s consideration. The Commission has reviewed the file and hereby issues its decision.

Audit selected the taxpayer’s 2009 Idaho income tax return 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 Other Subtractions claimed on Idaho

Form 39NR, and to provide receipts for the unreimbursed employee expenses claimed on [Redacted], Schedule A. The taxpayer did not respond and an NODD was issued disallowing the unsubstantiated expenses. While the taxpayer did not provide any information to support the items under review, Audit did modify the NODD, based on the information provided by the taxpayer in her appeal letter, reducing the amount of Idaho taxable income to reflect only Idaho source income. A copy of the modified audit report was sent to the taxpayer, along with another request for documentation. No response was received.

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 burden rests upon the taxpayer to disclose his receipts and claim his proper deductions. United States v. Ballard, 535 F.2d 400 (1976). 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). The taxpayer did not provide any documentation or support for her deductions. Therefore, absent any information to substantiate the deductions disallowed by Audit, the Commission must uphold Audit's determination.

The taxpayer claimed \$74,714 in unreimbursed employee business expenses on her [Redacted] Schedule A and \$58,078 in other subtractions on Idaho form 39NR for taxable year 2009, but has failed to provide adequate substantiation to verify these amounts. Again, the taxpayer has not met her burden of record keeping.

THEREFORE, the Notice of Deficiency Determination dated May 13, 2013, and directed to [Redacted], is MODIFIED, and as modified, is AFFIRMED.

IT IS ORDERED that the taxpayer pay the following tax, penalty and interest for taxable year 2009:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$1,388	\$69	\$231	\$1,688

Interest is computed through July 7, 2014.

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