

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25872
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

BACKGROUND

On March 26, 2013, the Audit Division (Audit) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted](Petitioners) proposing income tax, penalty, and interest for taxable years 2009 and 2010, in the total amount of \$5,874. On May 24, 2013, the Petitioners filed a timely protest and provided some additional information. A modified NODD was sent to the Petitioners on July 17, 2013. The balance due remaining for income tax, penalty, and interest for taxable years 2009 and 2010, was \$5,823. On August 22, 2013, the file was transferred to the Legal/Tax Policy Division for resolution. On October 15, 2013, the Commission sent the taxpayer a letter that explained the methods available for redetermining an NODD.

ISSUES

1. Whether clothing worn for working as a [Redacted] is qualified for an unreimbursed employee expense on Federal Form 2106 and Federal Schedule A.
2. Whether the five percent (5%) negligence penalty should be assessed in this case.

DISCUSSION

When the Petitioners sent the initial protest letter on May 24, 2013, they protested the disallowance of the wife's [Redacted] work clothes. With that protest letter, they included some receipts, credit card statements and other information in support of all their unreimbursed

employee expense claims. Included in the information provided, was a copy of the dress code for the [Redacted] that employed the wife as a [Redacted]. The [Redacted] dress code said that employees had the option of wearing [Redacted] or business casual clothing with a [Redacted]. To be deducted as an itemized deduction, clothing has to be both required by the employer and not of a type adaptable for wearing outside of work. There are cases where a [Redacted] can be required to wear [Redacted] that are not fit for outside wear. Certain [Redacted] workers that come into contact with [Redacted] wear specific uniforms while on duty¹. The Petitioners did not make that claim and the receipts provided were for ordinary clothing and not [Redacted]. Similarly, there might be cases where a mechanic would be required to wear specialized or safety shoes and clothing that is not adaptable to regular use. The Petitioner did not make any such claim and the receipts provided did not show that any specialized clothing was purchased.

Based on the documents provided with the protest, Audit accepted some of the auto and tool expenses that were claimed on the original tax return. Neither the wife's [Redacted] clothes, nor the husband's work clothes that the Petitioners claimed for a deduction met the criteria required by the Internal Revenue Code (IRC) Section 162 as ordinary or necessary business expenses.

CONCLUSION

On the issue of whether the Petitioner is entitled to a deduction for unreimbursed employee expenses for the wife's [Redacted] clothing, it does not appear that the clothing purchased satisfied either requirement to be deductible. The Commission agrees with the conclusion made by Audit to disallow the clothing expense.

¹ [Redacted].

Considering the issue of whether the negligence penalties under Idaho Code section 63-3046(a) should be imposed, there are circumstances in which both [Redacted] and [Redacted] could be allowed to claim a deduction for certain clothing. Even though the Petitioners did not meet the requirements in this case, the Commission elects not to pursue the negligence penalty in this case.

THEREFORE, the Notice of Deficiency Determination dated March 26, 2013, corrected on June 17, 2013, and directed to [Redacted] and [Redacted] is hereby AFFIRMED, minus the penalty.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/09	\$4,054	\$ 0	\$ 643	\$ 4,697
12/31/10	904	0	100	<u>1,004</u>
			TOTAL	\$ 5,701
			LESS REMITTANCE	<u>(5,900)</u>
			BALANCE DUE	<u>\$ (199)</u>

Interest is calculated through August 30, 2014, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

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 _____ 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.
