

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NOS. 30785 & 30795
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On November 13, 2013, the staff of the Income Tax Audit Bureau (Audit) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] and [Redacted] (petitioners) proposing income tax, penalty, and interest for taxable years 2008 through 2011 in the total amount of \$4,882. An NODD was also issued to [Redacted], for taxable years 2008 and 2009, in the total amount of \$0. A timely protest and petition for redetermination of both NODD's was filed by the petitioners. An informal hearing has not been requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NODD directed to the petitioners.

For taxable years 2008 and 2009, [Redacted] filed partnership returns. Audit selected these returns, as well as the individual returns filed by the petitioners, for examination, specifically reviewing the amount of expenses deducted on the returns. Due to lack of substantiation, many of the expenses claimed were disallowed. An NODD was issued to [Redacted], increasing the amount of net business income subject to apportionment. Because the business is a partnership, all income flowed through to the petitioners' individual income tax returns, resulting in an NODD to the business for taxable years 2008 and 2009, in the total amount of \$0, and an NODD to the petitioners for the same years, in the amount of \$2,005. For taxable years 2010 and 2011, the petitioners' individual income tax returns included a Schedule C for [Redacted], along with a Schedule C for a consulting business operated by

[Redacted]. Audit's examination of the petitioners' returns for taxable years 2010 and 2011 included a review of the business expenses claimed on the Schedule C's for both of these businesses. Again, due to lack of adequate substantiation, most, if not all, of the expenses claimed were disallowed. Therefore, the NODD with the adjustments for taxable years 2008 and 2009, as a result of the examination of the partnership returns, also included adjustments made to the petitioners' individual returns for taxable years 2010 and 2011. The NODD issued to [Redacted], and the NODD issued to the petitioners were both protested by the petitioners.

The petitioners' protest letter, received by Audit, included documentation that had not previously been provided. Audit reviewed this documentation and subsequently modified the NODD for all tax years. A modified audit report, and explanation page that included schedules of what items were allowed and disallowed, was sent to the petitioners on February 4, 2014. The petitioners were given the option to either provide additional information or withdraw their appeal if they were in agreement with the reduced amount of tax due now shown on the NODD. Additional information was provided by the petitioners and the NODD was again modified, reducing the total amount of tax due. The petitioners continued to disagree with the remaining adjustments and the file was transferred to the Legal/Tax Policy Division for continuation of the appeals process.

The Commission sent the petitioners a letter advising them of their alternatives for redetermining a protested deficiency determination. The petitioners did not respond. Therefore, the Commission decided this matter based on the information presently contained in the file.

The majority of the petitioners' contentions had to do with the allowance of deductions. The law is well established that the taxpayer has the burden of proof with regard to the allowance of deductions:

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).

With regard to several of the business expenses claimed on the returns, the petitioners may have been entitled to some, or possibly all, of these expenses had they provided adequate substantiation. However, the petitioners have not met their burden of substantiation for the expenses relating to their businesses for taxable years 2008 through 2011. Therefore, the Commission upholds the NODDs, as modified by Audit.

Interest and penalty were added, pursuant to Idaho Code §§ 63-3045 and 63-3046. The Commission reviewed those additions and found them proper and in accordance with Idaho Code.

THEREFORE, the Notices of Deficiency Determination dated November 13, 2013, and directed to [Redacted] and [Redacted] and to [Redacted], are hereby MODIFIED, and as modified, are AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$100	\$10	\$22	\$132
2009	101	10	19	130
2010	0	0	0	0
2011	455	23	53	<u>531</u>
			TOTAL DUE	<u>\$793</u>

Interest is calculated through June 1, 2015.

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 _____ 2015.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2015, 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.
