

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 39032
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On April 10, 2014, the Idaho State Tax Commission (the Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] (Petitioners) proposing income taxes and interest for taxable years 2009, 2010, 2011, and 2012, in the total amount of \$10,053. The Commission subsequently modified this Notice, proposing taxes and interest for taxable years 2009, 2010, 2011, and 2012 in the total amount of \$9,451. The Commission hereby issues its decision and approves this Notice, as amended, as set forth herein.

BACKGROUND

The Income Tax Audit Bureau (the Bureau) performed an audit of Petitioners' Idaho individual income tax returns. The Bureau identified, through this audit, that Petitioners had incorrectly claimed capital gains deductions in taxable years 2009, 2010, 2011, and 2012 for the sale of [Redacted]. The Bureau also identified that Petitioners had incorrectly claimed deductions related to charitable contributions and examined contributions claimed in taxable years 2009, 2010, 2011, and 2012.

Over the course of the audit, Petitioners and the Bureau exchanged correspondence and information related to the tax years at issue. The Bureau requested, and Petitioner provided to the Bureau, a copy of the sales contract which memorialized the sale of the Petitioners' [Redacted]. Petitioners also provided statements asserting that [Redacted] should be considered as depreciable property used in a trade or business as defined in section 1231 of the Internal

Revenue Code (IRC). Petitioners presented statements, arguing in the alternative that the [Redacted] be treated as livestock or that the [Redacted] be treated generically as tangible personal property used in the trade or business and held for more than one year. Petitioners asserted that the [Redacted], is depreciable property as defined in section 1231 and thus entitles them to a capital gains deduction.

Petitioners and the Bureau also communicated regarding the charitable contribution issue. Petitioners only submitted documentation evidencing charitable contributions for the 2009 tax year. The Petitioners indicated that they would gather documentary evidence of their 2010 charitable contributions. The Petitioners additionally indicated that the amount claimed in 2011 was actually paid in 2010. The Bureau has made repeated requests of Petitioners to supply additional information regarding tax years 2010 and 2011; however, Petitioners have provided no additional information.

The Bureau was ultimately unconvinced by Petitioners' assertion that Petitioners were entitled to capital gains deductions, as claimed, in taxable years 2009, 2010, 2011, and 2012. The Bureau found that [Redacted] could not be considered IRC 1231 property. The Bureau suggested that Petitioner provide information regarding the non-transient components of the sold [Redacted]. The Bureau specifically requested information related to the [Redacted], however, the Petitioners were unable to provide any information related to the [Redacted].

Upon receipt of documentary evidence of Petitioners' 2009 charitable contribution, the Bureau modified the Notice to remove the audit adjustment made to the 2009 tax year.

Petitioners timely filed a protest of the April 10, 2014, Notice and on December 22, 2014, the Commission sent a letter to Petitioners advising them of their right to a hearing and their right to supply additional information for the Commission's review. The Petitioners responded

to the Commission's letter on January 26, 2015, wherein the Petitioners elected to forego a hearing. Petitioners subsequently provided the Commission with additional arguments related to the capital gains deductions. Petitioners have not provided any additional information related to the charitable contribution issue. Petitioners have not provided any other documentary evidence to support their arguments either. Petitioners made payments on June 3, 2011, and June 12, 2014, totaling \$9,550. The amount paid by Petitioners exceeds the amount due on the modified NODD.

ANALYSIS

Deductions and credits are a matter of legislative grace; taxpayers bear the burden of proving their entitlement to deductions allowed by the IRC and substantiating the amounts claimed. INDOPCO, Inc. v. Commissioner, 503 U.S. 79, 84, 112 S. Ct. 1039, 117 L. Ed. 2d 226 (1992); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, 54 S. Ct. 788, 78 L. Ed. 1348 (1934). Petitioners have failed to provide sufficient information to prove their entitlement to capital gains deductions for taxable years 2009, 2010, 2011 and their entitlement to charitable contribution deductions for taxable year 2011.

A taxpayer may qualify for a capital gains deduction if the taxpayer recognizes a "gain on the sale or exchange of property used in the trade or business." 26 U.S.C. § 1231(a). To qualify for such a deduction, and as is relevant to this matter, the taxpayer must have disposed of property "which is subject to the allowance for depreciation provided in section 167, held for more than 1 year" or disposed of livestock held for at least one year. 26 U.S.C. § 1231(b)(1) and (3) and Idaho Code § 63-3022H(3).

In the instant matter, Petitioners sold property that was a mixture of property held for at least one year and property held for less than one year. The Petitioners' sale included

components of [Redacted], which have a useful life of more than one year. This sale also included [Redacted]. Other than the [Redacted] in Petitioners' [Redacted]. Thus, Petitioners disposed of some assets that they had held for more than one year and other assets that they had not held for more than one year.

Petitioners failed to separately account for the different types of property in the information that they have provided to the Commission, even after the Commission requested such information. At this point, it is impossible for the Commission to determine which portions of the disposed property meet the one year holding requirement set forth in 26 U.S.C. § 1231(b)(1) and (3) and Idaho Code § 63-3022H(3). Therefore, the Commission must disallow the deduction.

Additionally, Petitioners have contended that honeybees are livestock according to Treasury Regulation 1.1231-2, and as such, the Petitioners are entitled to a capital gains deduction. Even if the Commission accepts this argument, which it does not, Petitioners still have the burden of showing a one year holding period for their livestock. Idaho Code § 63-3022H(3)(d). As discussed before, the Petitioners have not separately accounted for the different holding periods of their assets, and the Commission is unable to determine which portions of the disposed property meet the one-year holding requirement.

Additionally, as to the charitable contribution deductions for taxable year 2011, Petitioners stated that the amount claimed in 2011 was actually paid in 2010. Petitioners have supplied no information to support their claim for a charitable contribution deduction for taxable year 2011. Therefore, Petitioners have not met their burden to entitle them to a charitable contribution deduction for that year, and such deduction is properly denied.

THEREFORE, the Notice of Deficiency Determination dated April 10, 2014, as modified on June 27, 2014, and directed to [Redacted], is APPROVED and MADE FINAL as set forth below:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$1,738	\$ 87	\$284	\$ 2,109
2010	1,807	90	210	2,107
2011	2,825	141	215	3,181
2012	1,856	93	73	<u>2,022</u>
			TOTAL DUE	<u>\$ 9,419</u>
			PAYMENT	<u>(\$ 9,550)</u>
REFUND	\$ 131		(\$ 8)	<u>(\$ 139)</u>

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.

Copy mailed to:

[Redacted]
