

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-438-095-872
[Redacted]	,)
)	
Petitioners.)	DECISION
)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated November 3, 2015, asserting additional income tax and interest in the total amount of \$583 for taxable years 2012, 2013, and 2014. Petitioners disagreed that their contributions to Idaho public radio do not qualify for the Idaho charitable contributions credit. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioners filed their 2012, 2013, and 2014 Idaho individual income tax returns claiming the Idaho credit for charitable contributions. The Income Tax Audit Bureau (Bureau) reviewed Petitioners' contributions and determined the contributions to Idaho public radio did not qualify for the credit. The Bureau corrected Petitioner's 2012, 2013, and 2014 income tax returns and sent them a Notice of Deficiency Determination.

Petitioners protested the Notice of Deficiency Determination stating that Idaho public radio is an educational entity located in the state of Idaho. Petitioners stated it is a service of the School of Journalism and Mass Media at the University of Idaho (UI). Petitioners stated Idaho public radio satisfies the criteria set out in the Tax Commission's instructions to form 39R in that Idaho public radio is "a nonprofit, private or public Idaho school (elementary, secondary or higher education) or its foundation [and] Idaho education public broadcast system foundations." Petitioners stated if the Tax Commission's instructions were lacking, they should have referred taxpayers to the Idaho statute so the taxpayer could interpret and apply the law.

Petitioners stated their donations were made each year during Northwest Public Radio's (NWPR) annual fund raising campaign in which the radio station made the statement that "NWPR, a service of the Edward R. Murrow College of Communication at Washington State University in cooperation with the School of Communication at the University of Idaho." Petitioners stated they were told by NWPR that the two universities worked in cooperation with each other. Petitioners stated they "acted in good faith" and "more-than-reasonable" due diligence in claiming the credit.

The Bureau acknowledged Petitioners' protest and referred the matter for administrative review. The Tax Commission reviewed the matter and sent Petitioners a letter that discussed their options in the administrative review process. Petitioners chose a telephone hearing which was held May 3, 2016. During the hearing Petitioners restated their position as found in their protest letter. Petitioners stated, in good faith they fully believed their donations were to Idaho public radio. Petitioners stated even the receipts for their donations stated Idaho public radio. Petitioners stated they felt they did what was right and they met the intent. Petitioners stated it feels like they were caught in a "speed trap" because the instructions are vague.

LAW AND ANALYSIS

Idaho Code section 63-3029A states in pertinent part,

At the election of the taxpayer, there shall be allowed, . . . as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, . . . to Idaho education public broadcast system foundations within the state of Idaho, . . . and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section. (Underlining added.)

Petitioners argued that their donations to Idaho public radio qualified for the charitable contributions credit of Idaho Code section 63-3029A. Petitioners stated their donations to the Washington State University (WSU) Foundation went to support Idaho public radio, serving northern Idaho, on the UI campus. Petitioners stated the foundation supported the Idaho education public broadcast system.

The Idaho educational public broadcasting system (IEPBS) is an agency of the Idaho State Board of Education. IEPBS is charged with the administration, operation, and programming expertise, direction, guidance, and assistance to the management and staff of Idaho's three public television stations.¹ IEPBS is supported by the state of Idaho and its foundation, which must adhere to the policies and procedures established by the State Board of Education.² The WSU Foundation that Petitioners donated to is not an affiliated foundation supporting Idaho's public television stations, nor does it fall under the governing provisions of the Idaho State Board of Education. Petitioners donated to NWPR (Idaho public radio) not to the Idaho education public broadcast system.

Petitioners also argued that Idaho public radio was an educational entity and that they contributed to its foundation. However, the WSU Foundation was not organized and is not operated exclusively for the benefit of institutions of higher learning located in the state of Idaho. The WSU Foundation's support of public radio in Idaho, which benefits the UI, is only a small part of the Foundation's function and purpose. Since the WSU Foundation does not exclusively support an Idaho institution of higher learning, donations to the foundation do not qualify for the Idaho credit.

¹ Idaho State Board of Education: Governing Policies and Procedures, October 2014, Section IV, Subsection C. – Idaho Educational Public Broadcasting System.

² Idaho State Board of Education: Governing Policies and Procedures, October 2014, Section V, Subsection E. – Gifts and Affiliated Foundations.

CONCLUSION

Petitioners’ made donations to NWPR for the purpose of supporting public radio in Idaho. The foundation Petitioners contributed to is not a foundation organized and operated exclusively for an institution of higher learning located in Idaho. Neither is the foundation established to support Idaho public television. Because the law is clear in its specific allowance of the credit, and “[T]he Tax Commission’s function is to uphold the law as written” Bogner v. State Tax Commission, 107 Idaho 854, 693 P.2d 1056, (1984); Potlatch Corp. v. Idaho State Tax Commission, 128 Idaho 387, 913 P.2d 1157 (1996), the Tax Commission must uphold the Notice of Deficiency Determination.

THEREFORE, the Notice of Deficiency Determination dated November 3, 2015, and directed to **[Redacted]** is AFFIRMED.

IT IS ORDERED that Petitioners pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2012	\$183	\$23	\$206
2013	182	17	199
2014	183	9	<u>192</u>
		TOTAL DUE	<u>\$597</u>

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 _____ 2016.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2016, 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.
