

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 39119
[REDACTED],)
)
Petitioner.) DECISION
)
_____)

[Redacted] (petitioner) protests the portion of the Notice of Deficiency Determination (NODD) issued by the auditor for the Idaho State Tax Commission (Commission) dated April 16, 2013, which asserted additional Idaho income tax, penalty, and interest in the total amount of \$71,668 for 2010.

The petitioner did not timely file an Idaho income tax return for 2010. On April 11, 2012, the auditor sent the petitioner a NODD asserting a total liability of \$50,428 for 2010 based upon Idaho taxable income of \$502,901. This NODD was not protested by the petitioner. On June 25, 2012, the Commission received from the petitioner an Idaho income tax return for 2010 reflecting Idaho taxable income of zero. After reviewing bank records for the petitioner's accounts and the available 1099s, the auditor determined the amount of the petitioner's Idaho taxable income to be \$1,981,980. The auditor then issued another NODD to the petitioner dated August 16, 2013, asserting a total liability for 2010 in the amount of \$71,668.

The petitioner filed a protest to this liability. The petitioner claimed many deductions without identifying the activity to which they related. The auditor sought additional information with regard to the deductions claimed by the petitioner. When the auditor did not receive the detail that he sought, a summons was issued to the petitioner. The Court Order stated, in part:

IT IS HEREBY FURTHER ORDERED that should Petitioner fail to provide the documents outlined in the Idaho State Tax Commission's Summons by July 31, 2014, Respondent will be precluded from submitting the same requested documents at a later date during any future adversarial proceeding involving the petitioner's 2010 Idaho individual income tax return.

The petitioner provided some additional documentation to the audit staff. To reflect the documentation submitted, the auditor prepared a modified report dated September 18, 2014, reflecting additional allowable business deductions which reduced the petitioner's Idaho taxable income to \$937,801. This reduced the petitioner's liability for 2010 (with interest computed to December 5, 2014) to \$46,997. The petitioner did supply some additional documentation during this administrative appeal. The documentation provided included credit card statements (without the itemized invoices,) some of which were billed to someone other than the petitioner. In considering a somewhat similar matter, the U. S. Tax Court stated, in part:

Petitioners claimed a \$143 deduction for supplies. To substantiate this item, petitioners submitted two Visa credit card statements. The statements indicate petitioners made purchases at Aaron Brothers, Office Max, and The Container Store in May and November of 2002; the spreadsheets petitioner prepared indicate that these expenses were incurred for frames, notebooks, pens, and "items". The relationship of these expenses to petitioner's real estate activity was not established. Petitioners also claim that they paid cash for some supplies, but they did not present any receipts or canceled checks to support these expenses.

On the basis of the submitted Visa credit card statements, it is clear that petitioners made purchases at stores that sell office supplies. There is no evidence, however, other than petitioner's self-serving testimony, which we do not find probative, that these expenses were related to or incurred in connection with petitioner's real estate activity. Without further substantiating evidence, the Court sustains respondent's determination disallowing such expenses.

Alemasov v. Commissioner, T.C. Memo 2007-130. *See also* Tax Practice Management, Inc. v.

Commissioner, T.C. Memo 2010-266, Longino v. Commissioner, T.C. Memo 2013-80.

Clearly, the information submitted by the petitioner is insufficient to justify a reduction in the petitioner's liability, due to the lack of certainty regarding the nature and business purpose for the expenditures in question. Had the petitioner submitted the detailed invoice and other relevant information, the Commission may have been able to further reduce the petitioner's deficiency.

However, given the court's order precluding the petitioner's subsequent submission of the documents, the Commission finds itself estopped from further reducing the petitioner's liability.

The Commission has reviewed the auditor's modified computations and has found no error. WHEREFORE, the Notice of Deficiency Determination dated August 16, 2013, is hereby MODIFIED and as so modified is APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty, and interest (computed to May 15, 2016):

YEAR	TAX	PENALTY	INTEREST	TOTAL
2010	\$33,922	\$8,481	\$6,622	\$49,025

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's 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.
