

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
[Redacted]	)	DOCKET NO. 0-399-755-264
,	)	
	)	
Petitioner.	)	DECISION
_____	)	

The Idaho State Tax Commission (Commission) reviewed your case and this is our final decision. We uphold the modified Notice of Deficiency Determination (Notice) dated March 6, 2018. This means **you need to pay \$2,035** of tax, penalty and interest for taxable years 2014 through 2016. The Commission now DEMANDS immediate payment of this amount.

[Redacted] (Petitioner) was an Idaho resident for the years under review. For taxable years 2014 through 2016, Petitioner timely filed his Idaho resident income tax returns. Each year’s return showed Petitioner’s occupation as instructor, included W-2 wages from [Redacted], and a Schedule C listing the principal business as educator.

On January 30, 2018, the Income Tax Audit Bureau (Audit) notified Petitioner his 2014 through 2016 returns were being examined and that additional documentation was needed. Petitioner did not provide the documentation requested. Therefore, Audit issued a Notice disallowing the expenses claimed on Petitioner’s Schedule C.

Petitioner, through his appointed representative, protested the Notice, arguing that “all Schedule C expenses are allowable” and that “[Redacted] is eligible for deduction of expenses related to the business use of his home.” More information was provided with Petitioner’s appeal which Audit reviewed and determined an adjustment to the Notice was warranted. A modified Notice was sent to Petitioner, but he continued his objections and the matter was referred to the Appeals unit for administrative review. An informal hearing was held on February 26, 2019. Petitioner provided no additional documentation during the hearing or at any time during the administrative review process.

Initial review of Petitioner’s 2014 through 2016 Idaho individual income tax returns centered on the expenses claimed on form Schedule C, where Petitioner listed his business as an “Educator.” The Schedule C’s for each year reported no gross receipts, a deduction for cost of goods sold, and various other expenses. As the audit progressed, Petitioner’s appointed representative abandoned his argument that Petitioner was entitled to all the expenses shown on Schedule C, instead saying the expenses are deductible on Petitioner’s Schedule A.

The representative argues Petitioner is entitled to the following unreimbursed employee business expenses:

<b>Tax year</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Computer Expense		1,620	1,071
Car & Truck	1,487		
Home office Expense	721		
Insurance	250		249
Internet Expense	838		810
Office Expense	1,197		357
Repairs	100		
Telephone	990		914
Utilities			871
Teaching-Ghana			1,471
Depreciation	8,824	8,826	8,824
<b>Total Business Expenses</b>	<b>\$14,407</b>	<b>\$10,446</b>	<b>\$14,567</b>

Idaho Code section 63-3042 authorizes the Idaho State Tax Commission to examine any books, papers, records, or other data necessary to ascertain the correctness of a return. Tax Commission Administrative and Enforcement rule 201.04(a) authorizes the Idaho State Tax Commission to disallow claimed deductions if a taxpayer fails to produce records supporting information shown on a tax return.

Section 62(a)(2)(A) of the Internal Revenue Code states that an individual performing services as an employee may deduct certain business expenses incurred as miscellaneous itemized deductions on Schedule A, to the extent that the expenses exceed 2 percent of the taxpayer’s adjusted gross income.

Taxpayers have no inherent right to deductions; they are a matter of legislative grace. *See Interstate Transit Lines v. Commissioner*, 319 U.S. 590, 593, 63 S.Ct. 1279, 1281, 87 L.Ed. 1607 (1943); *New Colonial Ice, Inc. Co. v. Helvering*, 292 U.S. 435, 440, 54 S.Ct. 788, 790, 78 L.Ed. 1348 (1934). Therefore, when seeking a deduction, whether on Schedule C or Schedule A, Petitioner must be able to point to some particular statute to justify his deduction and establish that he comes within its terms. *See Deputy et al. v. Du Pont*, 308 U.S. 488, 493, 60 S.Ct. 363, 366, 84 L.Ed. 416 (1940).

In the present case, Petitioner provided receipts that substantiated the payment of some of the expenses claimed. However, he failed to provide the business purpose or the business use percentage; proof of payment alone does not show entitlement to the expense. For example, Petitioner claimed a depreciation deduction for each year under review, but did not provide a schedule of the item being depreciated or the business purpose.

In one year, he claimed a deduction for a teaching trip to [Redacted] but according to a statement from Petitioner, [Redacted] will reimburse him for travel expenses if they send him overseas to teach. A copy of an email from an employee of [Redacted] confirms that reimbursement is allowed; “if you have copies of the receipts please send all to me so I can get you reimbursed.” Numerous courts have held that an expense is not necessary when an employee does not claim reimbursement for the expense when entitled to do so. *See Coplon v. Commissioner*, 277 F.2d 534, 535 [5AFTR2d 1313] (6<sup>th</sup> Cir. 1960). Petitioner cannot convert a business expense into one of his own simply by not seeking reimbursement. *See Coplon*, 277 F.2d at 535.

As mentioned previously, Audit modified its original Notice. The adjustment to remove all Schedule C expenses remains. Audit’s adjustment was to allow, as miscellaneous itemized deductions, the substantiated expenses that could easily be identified as business related: computer paper, computer equipment and repair, etc. Audit also allowed a deduction for fifty

percent of Petitioner's internet expenses.

Deductions are a matter of legislative grace and the taxpayer bears the burden of proof to show that the deduction claimed is within the applicable statute. *See New Colonial Ice Co. v. Helvering*, supra. *See also Higgins v. C.I.R.*, T.C.M. 1984-330 (1984). The burden rests upon the taxpayer to disclose his receipts and claim his proper deductions. *See United States v. Ballard*, 535 F.2d 400 (1976). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed, and that taxpayer must bear his misfortune. *See Burnet v. Houston*, 283 U.S. 223, 51 S.Ct. 413 (1931). For the expenses under review in this matter, Petitioner may have provided receipts, but he did not provide all necessary documentation required for the deduction. Therefore, Petitioner must bear his misfortune and pay the additional tax associated with the disallowed deductions.

The Notice dated March 6, 2018, and directed to [Redacted] as modified by Audit, is hereby AFFIRMED by this decision.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2014	\$630	\$32	\$107	\$769
2015	21	10	3	34
2016	1,079	54	99	1,232
			TOTAL DUE	<u>\$2,035</u>

Interest is calculated through August 12, 2019.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2019,  
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.

---