BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-055-606-784
[Redacted],	)	
	)	
Petitioners.	)	DECISION
	)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated December 13, 2018. Petitioners disagreed with the audit staff's adjustment to their depreciation deduction. The Tax Commission reviewed the matter and hereby modifies the Notice of Deficiency Determination.

BACKGROUND

The Income Tax Audit Bureau (Bureau) selected Petitioners' 2015 and 2016 Idaho individual income tax returns to examine the investment tax credit (ITC) claimed in both years, the health insurance premiums deduction claimed in 2015, depreciation on listed property claimed in 2016, and the sale of equipment reported on Form 4797 in 2015. The Bureau requested specific information from Petitioners. After reviewing the information Petitioners provided, the Bureau determined there was no adjustment to the health insurance premiums deduction or to the sale of equipment. However, the Bureau did find that Petitioners did not recapture the ITC claimed on the equipment sold, and that Petitioners did not adequately substantiate the depreciation claimed on a Polaris Razor (Razor), a Wildcat travel trailer, or a Ford Edge SUV (SUV). The Bureau adjusted Petitioners' 2016 Idaho income tax return and sent them a Notice of Deficiency Determination.

Petitioners protested the Bureau's determination. Petitioners stated they provided all the documentation the auditor requested. Petitioners stated they did not understand why the auditor

was unable to understand the records they provided, as all the expenses claimed were business related. Petitioners stated the auditor's claim that Petitioners declined to provide specific documentation is wholly and factually inaccurate. Regarding the ITC adjustment, Petitioners stated no property was sold so recapture does not apply. Petitioners stated they owe no additional tax to the state of Idaho.

The Bureau referred the matter to the Tax Commission's Appeals Unit (Appeals), which sent Petitioners a letter giving them the options available for redetermining a Notice of Deficiency Determination. Petitioners chose to have a telephonic hearing. Petitioners' hearing was held on June 18, 2019. During the hearing, Appeals asked Petitioners if they agreed or disagreed with the adjustment made to the ITC. Petitioners stated they agreed with the adjustment. Appeals asked Petitioners about the use of the second Razor purchased in 2016. Petitioners were confused because they only purchased one Razor, which they thought was in the spring of 2016. Appeals showed Petitioners where they claimed depreciation on two Razors, one purchased in 2015 and the other in 2016. Petitioners stated one of those was a mistake because they only purchased one Razor. Petitioners stated [Redacted] uses the Razor to look at prospective jobs. [Redacted] business is logging, and he takes the Razor into unimproved areas to bid jobs for hauling. Petitioners stated the jobs are often in areas where the roads are very primitive or nonexistent. Petitioners stated the Razor allows [Redacted] access to the areas with his artificial leg. Appeals asked about the personal use of the Razor. Petitioners stated it has been very limited, but [Redacted] would like to use it more.

Appeals then asked Petitioners about the purchase and use of the travel trailer. Petitioners stated the trailer was purchased from a private party with a company check. Petitioners stated the trailer was used on out of town jobs. The trailer was taken to the job site and left there for employees to use when hauling logs from the forest. The job sites were in remote areas and having

the trailer there for employees to stay and sleep in, cut the travel time and allowed the drivers more drive time. When asked about Petitioners' personal use of the trailer Petitioners stated they have not used it personally but would like to in the future. Appeals asked Petitioners to provide a log of business use of the trailer. Petitioners stated they would send Appeals something to show when and where the trailer was used.

The last item discussed was the SUV. Appeals asked Petitioners to document their basis and the business use of the SUV. Petitioners stated they purchased the vehicle new and it was only used for business purposes. Petitioners stated they used the SUV in both of their businesses; [Redacted] in her café business and [Redacted] in the logging and chip hauling business. Petitioners stated [Redacted] used the SUV for food purchases and [Redacted] used it to get parts for his equipment. Petitioners stated they had two other vehicles for personal use.

Appeals explained that the SUV is "listed property" and the law requires more stringent documentation. Petitioners stated they would gather what documentation they had and send it in. Ten days later, Petitioners provided additional information on their basis and business use of the assets.

As stated in the hearing, Petitioners made an error in claiming two Razors. Petitioners provided documentation showing the purchase price and the date the Razor was purchased. Petitioners provided documentation showing the purchase date and cost of the trailer. Petitioners also provided documentation showing the business use of the trailer. As for the SUV, Petitioners provided documentation of what they paid for the vehicle. Petitioners also stated an error was made in the cost basis reported on their return. Petitioners stated an extra zero was mistakenly added to the down payment amount that increased their basis by $10,000.

Appeals reviewed the information Petitioners provided. Appeals responded to the information stating that it would accept the information provided on the trailer and allow the depreciation claimed. Regarding the Razor, Appeals stated it would allow depreciation on the actual cost basis of the Razor, and adjustment will be made disallowing the second Razor since it does not exist. As for the SUV, Appeals told Petitioners they needed to provide documentation to establish the business use. Petitioners replied that they believed the SUV was used 80% of the time in [Redacted] business, 10% of the time in [Redacted] business, and 10% of the time personally; however, Petitioners provided no evidence of the business use. Appeals asked Petitioners to document the business use. Petitioners did not provide that documentation.

LAW AND ANALYSIS

Internal Revenue Code (IRC) § 162 provides for the deduction of all the ordinary and necessary expenses paid or incurred in carrying on a trade or business. IRC § 167 allows a depreciation deduction for the exhaustion, wear and tear of property used in a trade or business. IRC § 179 permits a taxpayer the election to expense the cost of section 179 property in the year the property is placed in service. IRC § 280F places restrictions and requirements on the deduction of listed property.

Listed property is defined in part as any passenger vehicle and any property of a type generally used for purposes of entertainment, recreation, or amusement. Petitioners' travel trailer, Razor, and SUV are listed property. IRC §§ 179 and 280F coordinate their provisions for the deduction of section 179 property that is also listed property. For listed property that a § 179 deduction is claimed, the limitations and requirements of § 280F are applied.

For property that is used for more than one purpose, Treasury Regulation § 1.280F-6 provides, in the case of an automobile, that the taxpayer allocate the use of the property based on

mileage. Petitioners provided adequate information substantiating the business use of the travel trailer and the Razor; however, Petitioners did not present adequate proof of the business use of the SUV.

Petitioners purchased the SUV in June 2016. Petitioners stated the SUV was used in [Redacted] business, the [Redacted], 80% of the time. Petitioners stated the SUV was used in [Redacted] business 10% of the time. Petitioners' 2016 income tax return does not report [Redacted] business. In fact, the property sold or disposed of in 2015 was identified as leasehold improvements and machinery and equipment of [Redacted]. Tax Commission records also show [Redacted] cancelled its sales tax and withholding tax permits. Consequently, if [Redacted] business ceased operations in June 2015, the SUV purchased in June 2016 could not have been used 80% of the time in [Redacted] business. Since Petitioners did not establish the business use percentage of the SUV, the Tax Commission upholds the Bureau's disallowance of the depreciation claimed for the SUV.

As previously stated, Petitioners provided adequate information substantiating the business use of the Razor. However, Petitioners are depreciating two Razors on their income tax returns. Petitioners reported purchasing a Razor in 2015 for $15,800 and they reported purchasing another in 2016 for $14,000. Petitioners stated they only purchased one Razor. The documentation provided shows Petitioners purchased a Razor in September 2015 and paid $8,000 for the Razor. As a result, the Tax Commission upholds the Bureau's adjustment disallowing the depreciation deduction for the 2016 Razor. In addition, the Tax Commission adjusted the basis of the 2015 Razor to $8,000. With the basis adjustment, the Tax Commission made the corresponding adjustment to the Razor's depreciation.

CONCLUSION

The Bureau adjusted Petitioners' 2015 Idaho individual income tax return to recapture ITC on qualified investment property that was sold in 2015. The adjustment only affected Petitioners' ITC carryover amount. The Bureau also adjusted Petitioners' 2016 depreciation deduction. Upon appeal, Petitioners provided adequate documentation and information to substantiate the business use and basis for the travel trailer. Petitioners also provided adequate documentation and information substantiating the business use and basis of the Razor. What Petitioners did not provide was documentation of their business use of the SUV. Therefore, the Tax Commission hereby modifies the Bureau's determination to allow the depreciation deduction for the travel trailer and adjusts the depreciation claimed on the Razor.

The Bureau added interest and penalty to Petitioners' tax deficiency. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code §§ 63-3045 and 63-3046.

THEREFORE, the Tax Commission AFFIRMS as MODIFIED the Notice of Deficiency Determination dated December 13, 2018, directed to [Redacted].

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

YEAR	TAX	PENALTY	INTEREST	TOTAL
2016	$2,824	$141	$334	$3,299

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

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

DATED this _____ day of _____ 2019.

IDAHO STATE TAX COMMISSION

_____

COMMISSIONER

[Redacted]

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:

Receipt No.

[Redacted]
[Redacted]
[Redacted]

_____

_____

[Redacted]
[Redacted]
[Redacted]
[Redacted]