



information, denied the deductions for unreimbursed employee expenses and issued a Notice. Petitioner protested the decision to deny the deductions. Audit accepted Petitioner's protest and transferred the matter for administrative review.

The Commission sent Petitioner a letter giving him two alternative methods for redetermining a protested Notice. Petitioner did not request a hearing, nor did he provide additional information. The Commission decided the matter based upon available information.

### **LAW AND ANALYSIS**

Petitioner claimed deductions for unreimbursed employee expenses on his Idaho individual income tax returns for taxable years 2015 and 2016. Petitioner did not provide information or provided incomplete information. Specifically, Petitioner has not provided an explanation of how these expenses were ordinary for the business and necessary as a part of his job duties. Without details that the expenses were necessary, ordinary, and required to be paid by the Petitioner without reimbursement, the expenses have been disallowed. Internal Revenue Code section 162(a) generally provides taxpayers with deductions for ordinary and necessary business expenses. However, the mere fact that an expense was paid or incurred in carrying on a trade or business doesn't entitle the taxpayer to a deduction. The deduction must not only be ordinary and necessary, but it must be an expense of the employee and not reimbursed by the employer. Petitioner's deductions for business expenses are not deductible as a necessary expense for a trade or business when Petitioner could have sought reimbursement from his employer but did not. *Orvis v. Commissioner*, 788 F2d 1406 (1986).

## CONCLUSION

On appeal, a deficiency determination issued by the Commission “is presumed to be correct and the burden is on the taxpayer to show that the Commission’s decision is erroneous.” *Parker v. Idaho State Tax Comm’n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson's Inc. v. State Dep't of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Commission requires Petitioner to provide adequate evidence to establish the amount asserted in the Notice is incorrect. Here, Petitioner did not provide adequate evidence. As a result, the Commission upheld the Notice.

An explanation of the taxpayer’s right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2020, 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.

\_\_\_\_\_

