



Commission contacted [REDACTED] who was president & CEO of [REDACTED]. Mr. [REDACTED] advised the staff of the Commission that Petitioner was part-time in 2016 and that he was properly issued a 1099 with no withholding.

Idaho Code section 63-3035(e) stated [2016]:

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year, which begins within such calendar year, and the return made by the employer under this subsection shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted.

Tax credits and deductions are a matter of legislative grace. Taxpayers bear the burden of proving entitlement to the credits they claim on their returns. *See INDOPCO, Inc. v. Commissioner*, 503 U.S. 79, 84, 112 S.Ct. 1039, 1042-43, 117 L.Ed.2d 226 (1992). Petitioner has failed to carry his burden of showing that the amount in question was withheld from his compensation and shown on the return filed by his employer. Accordingly, the withholding claimed by Petitioner with regard to his compensation from [REDACTED] is denied.

In the explanation of the NODD, the auditor stated, in part:

The Idaho grocery credit was not included on Line 12 of the TC68 page for tax years 2013, 2014 and 2016. We are unable to determine if you are eligible for the grocery credit. To claim this credit, please file actual returns.

Petitioner did file a 2016 Idaho income tax return properly claiming the Idaho grocery credit. Accordingly, this credit is allowed for 2016.

THEREFORE, the Notice of Deficiency Determination dated January 3, 2019, 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 and interest calculated to August 31, 2020:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2013	\$ 3,616	\$ 904	\$ 923	\$ 5,443
2014	2,843	711	\$ 612	\$ 4,166
2016	2,812	703	388	3,903
				<u>\$ 13,512</u>

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

An explanation of Petitioner'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.

[REDACTED]

\_\_\_\_\_  
\_\_\_\_\_

[REDACTED]