

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

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|---|---|--------------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 0-172-950-528 |
| |) | |
| Petitioners. |) | DECISION |
| <hr style="width: 45%; margin-left: 0;"/> |) | |

(Petitioners) protested the Notice of Deficiency Determination (Notice) dated March 16, 2022. Petitioners disagreed with the adjustments the Income Tax Audit Bureau (Audit) made to their 2018 Idaho individual income tax return. The Tax Commission reviewed the matter and for the reasons stated below upholds the Notice. This means Petitioners must pay \$1,315 of tax, penalty, and interest for tax year 2018.

BACKGROUND

Petitioners filed a 2018 Idaho individual income tax return claiming an investment tax credit (ITC). Audit selected Petitioners’ return to review the ITC claimed. Upon review, Audit found the ITC claimed in 2018 was for an item Petitioners purchased in 2017. Audit looked at Petitioners’ 2017 return, but it did not show an ITC, nor did it include any of the forms required when calculating an ITC. Therefore, Audit issued a Notice to Petitioners removing the ITC claimed on their 2018 return.

Petitioners protested the Notice stating, “I did not find a claim for an investment income of 1118 so do not feel I owe this 1294 as you say. Please explain.” During a phone conversation with Mrs. Audit attempted to explain the adjustment shown in the Notice and the applicable code section for individuals claiming the ITC. Mrs. stated she did not know why the credit was claimed on their 2018 return but thought it may be because they purchased a home with income her husband had inherited from his father. Unable to resolve the matter, Audit acknowledged Petitioners’ protest and referred the matter to the Tax Commission’s Appeals Unit (Appeals).

Appeals sent Petitioners a letter explaining the options available for redetermining a Notice and included copies of their 2018 return showing where they claimed the ITC. Petitioners responded, providing an amended return in hopes that it would resolve the issue. It did not.

LAW AND ANALYSIS

Deductions are a matter of legislative grace, and the taxpayer bears the burden of proving that he is entitled to the deductions claimed. *New Colonial Ice Co., Inc. v. Helvering*, 292 US. 435, 440, 54 S.Ct. 788 (1934). Taxpayers are required to maintain records that are sufficient to enable the determination of his correct tax liability. *See* IRC § 6001; Treasury Regulation § 1.6001-1(a). The burden rests upon the taxpayer to disclose his receipts and claim his proper deductions. *United States v. Ballard*, 535 F.2d 400, 404 (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. *Burnet v. Houston*, 283 U.S. 223, 51 S.Ct. 413 (1931).

Idaho Code section 63-3029B defines a qualifying investment for purposes of the ITC as property defined in the IRC of 1986, as in effect prior to November 5, 1990, sections 46(c) and 48. IRC section 48 stated that a qualifying investment is property subject to depreciation. Property subject to depreciation is property used in a trade or business. A personal residence, or inherited property, by its nature is not property used in a trade or business.

In the present matter, when first asked for documentation to support the ITC claimed on their 2018 return, Petitioners stated they did not know for sure why they claimed the credit. Petitioners speculated it might be related to an inheritance they received from Mr. father.

Petitioners provided an amended return for consideration during the administrative review hoping the changes would resolve the issue. However, the amended return still claimed an ITC and showed the reason for amending as “Form correction not business loss but K-1.” The amended return

claimed a capital loss from a K-1 issued by an Estate whose EIN is that of Mr.

Appeals reviewed the amended return, notified Petitioners it did not substantiate the ITC claim and asked for an explanation of how Mr. could have an estate in 2018 when they filed Married, filing joint returns in subsequent tax years. Petitioners responded, stating the estate was that of Mr.

father and when his house sold, it sold at a loss, which was to be divided between the brothers and sisters, with each deducting \$3,000 for four years. Petitioners also asked for advice on how to “fix” this but did not explain why the K-1 issued by the estate used Mr. social security number. Petitioners did not provide any additional information and requested the Tax Commission “just go with what you have” to resolve the protest.

Petitioners claimed an ITC on their 2018 return for a purchase they made in 2017, but what Petitioners purchased has not been established. To qualify for the ITC the property must have a useful life of three years or more, be property that is depreciable, and be used in Idaho in a trade or business. Petitioners have provided no documentation to show they purchased property that meets the requirements of a qualified investment. Therefore, no ITC can be allowed.

CONCLUSION

The Bureau adjusted Petitioners’ 2018 income tax return because documentation was lacking, inadequate, or the deduction or credit was incorrectly claimed. The Tax Commission reviewed the adjustments made and found the Bureau’s adjustments appropriate based on the documentation and information available. Therefore, the Tax Commission agrees with and upholds the Bureau’s Notice.

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

THEREFORE, the Notice dated March 16, 2022, directed to
is APPROVED and MADE FINAL.

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

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 2018 | \$1,118 | \$56 | \$141 | \$1,315 |

Interest is calculated to December 30, 2022.

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 _____ 2022.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2022,
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.
