

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-201-245-696
)	
Petitioners.)	DECISION
<hr style="width: 45%; margin-left: 0;"/>)	

(Petitioners) protested the Notice of Deficiency Determination (Notice) dated February 2, 2023. Petitioners disagreed with the adjustments the Income Tax Audit Bureau (Bureau) made to their 2019, 2020, and 2021 Idaho individual income tax returns. The Idaho State Tax Commission (Tax Commission) reviewed the matter and for the reason stated below modifies the Notice.

BACKGROUND

The Bureau selected Petitioners’ 2019, 2020, and 2021 Idaho income tax returns for examination of the Schedule C business activities, the Schedule A deductions, and the health insurance premium deductions. The Bureau notified Petitioners of the examination and requested they provide substantiation for the items under review.

Petitioners responded, providing documentation for some of the requested items but not all. Therefore, the Bureau sent a Notice, disallowing some of Petitioner’s Schedule C expenses, all Schedule A deductions, and some items on Idaho Form 39R.

In response to the Notice, Petitioners submitted a protest, objecting only to the disallowance of their Schedule C expenses. Petitioners stated that they claimed expenses for their “side gigs” and “I have every right to write off the things that were written off for side gigs that I take a loss on every year.” The Bureau acknowledged the protest and referred the matter to the Tax Commission’s Appeals Unit (Appeals) for administrative review.

Appeals sent Petitioners a letter explaining the options available for redetermining a Notice. Petitioners responded but did not request an informal hearing. Instead, Appeals discussed each of the Bureau's adjustments with Petitioners and explained the record keeping requirements that they need to meet to claim expenses on their Schedule C. As a result of this discussion, Petitioners provided additional information for the Tax Commission's consideration. The Tax Commission, having reviewed the additional documentation, decides the matter as follows.

LAW AND ANALYSIS

IRC section 162 provides for the deduction of all the ordinary and necessary expenses paid or incurred in carrying-on of a trade or business. Idaho Code section 63-3042 allows the Tax Commission to examine a taxpayer's books and records to determine the correctness of an Idaho income tax return. Tax Commission Administration and Enforcement rule IDAPA 35.02.01.201 provides that, "A taxpayer shall maintain all records that are necessary to a determination of the correct tax liability."

Deductions are a matter of legislative grace, and a 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 their correct tax liability. *See* IRC § 6001; Treasury Regulation § 1.6001-1(a). The burden rests upon the taxpayer to disclose his or her receipts and claim his or her 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 or her misfortune. *Burnet v. Houston*, 283 U.S. 223, 51 S.Ct. 413 (1931). A taxpayer's general statement that his or her expenses were incurred in pursuit of a trade or business is not sufficient to establish that the expenses had a reasonably direct relationship to

any such trade or business. *Near v. Commissioner of Internal Revenue*, T.C. Memo. 2020-10 (2020).

In the present matter, Petitioners reported three separate Schedule C business activities:

and Mrs. primarily operated these businesses. is Petitioners' business for which they have claimed advertising expenses. Appeals received Petitioners' payment records for the subscription fees that they paid to Facebook. Mrs. explained that her Facebook subscription allows her to access Facebook's premium contents and virtually promote her and products. The Tax Commission finds this expense to be ordinary and necessary; therefore, the Tax Commission allows deduction of advertising expenses to the extent that Mrs. provided substantiations.

Petitioners claimed meals relating to and provided a picture of a pile of receipts, to substantiate the expense. The receipts were not imaged individually but stacked on top of each other, and the ones visible in the picture were barely readable as all letters faded. Generally, meals are allowable at fifty percent (50%)¹ of the cost of a meal if the meal expense is ordinary and necessary expense in carrying on the taxpayer's trade or business, not lavish or extravagant², and if the taxpayer or taxpayer's employee was present at the meal. The deductible meals may be provided to a current or potential business customer, client, consultant, or similar business contact. IRC section 274(d) requires that the documentation substantiating an expense for meals include the amount of the expense, the time and place of the expense, the business purpose of the expense, and the business relationship to the taxpayer of the person receiving the benefit. Appeals received a list of the meal expenses with the details required by IRC section 274(d). Mrs. explained

¹ IRC section 274(n)(1)

² IRC section 274(k)

that all meal expenses were pertaining to requests (etc.) from her current and potential customers. The Tax Commission finds this expense to be ordinary and necessary; therefore, the Tax Commission allows deduction of the meal expenses at 50% of total business meal expenses that are business expenses and adequately substantiated.

Petitioners claimed expenses for the business use of a vehicle. For automobiles that are used for more than one purpose, Treasury Regulation section 1.280F-6 provides that the taxpayer allocate the use of the property based on mileage. To do this, a logbook of business miles to total miles is generally required. See IRC § 274(d). Petitioners' logbook does not provide sufficient information to verify the percentage of business use. Although the logbook has a brief description of business purposes, the business relationship is unclear. Appeals received no additional information for the use of personal vehicles regarding Petitioners have not met the burden of proof; therefore, the Tax Commission upholds the Bureau's determination, disallowing deduction of mileage expenses for

is another side gig for which Petitioners used their personal vehicle. Appeals received annual tax summary from Petitioners, showing "online miles", expenses, fees, tax, and reimbursement. The annual tax summary explains the expenses, fees, and tax as service fee/other adjustments and instant pay charges. Petitioners reported total gross earnings (delivering trips and incentives) from as their gross receipts in their Schedule C. The total payout Petitioners received was net of the gross earnings (trips and incentives) and the expenses, fees, and tax. Petitioner did not receive reimbursements for delivering mileage. The Tax Commission finds these expenses to be ordinary and necessary, therefore, the Tax Commission allows deduction of Petitioners' delivering mileage at standard mileage rate as well as the expenses, fees, and tax.

is Petitioners’ online marketplace business where they purchase products and resell them virtually. Petitioners claimed their product purchases as part of “other deduction” in Schedule C, instead of costs of the goods sold. Although Petitioners should have claimed deductible expense on the applicable line in Schedule C, this doesn’t affect total amount of deductible expenses and will be allowed.

CONCLUSION

The Tax Commission found that the additional information Petitioners provided during administrative review warranted modifications to the Notice. Therefore, the Tax Commission allowed the expenses that were business expenses and adequately documented. Accordingly, the Tax Commission modifies the Notice.

The Bureau added interest and penalty to Petitioners’ Idaho tax. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046. Interest is computed to March 20, 2024.

THEREFORE, the Notice of Deficiency Determination dated February 2, 2022, and directed to _____ is AFFIRMED as MODIFIED by this decision.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2019	\$2,342	\$117	\$316	\$2,775
2020	3,256	163	344	3,763
2021	3,215	161	271	<u>3,647</u>
			TOTAL DUE	<u>\$10,185</u>

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 _____ 2023.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2023,
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.
