

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-518-603-776
)	
)	
)	DECISION
Petitioners.)	

(Petitioners) protested the Notice of Deficiency Determination (Notice) dated September 8, 2022. The Tax Commission reviewed the case and hereby issues its final decision upholding the Notice. This means Petitioners need to pay \$245 of tax and interest for tax year 2020. The Tax Commission DEMANDS immediate payment of this amount.

Background

Petitioners filed a joint Idaho individual income tax return for tax year 2020. The Tax Commission’s Income Tax Audit Bureau (Audit) selected this return for review. Audit reviewed Petitioners’ deductions for energy efficiency upgrades (EEU) and alternative energy devices (AED), as well as Petitioners’ credit for income tax paid to other states (CTPOS). Audit notified Petitioners of the review on July 28, 2022, and requested information related to the deductions they claimed. Petitioners responded, indicating that the home where EEUs were installed was built in the year 2000 and that they had added to or replaced existing insulation, installed a “98% HVAC gas furnace,” and had not replaced a wood burning stove. Petitioners also provided purchase orders, a work proposal, and an invoice for the installation of the new HVAC system as substantiation. Audit determined that the documentation didn’t support the EEU and AED deductions and issued the Notice on September 8, 2022, disallowing the deductions and allowing additional CTPOS.

Petitioners filed a protest of the Notice on November 3, 2022, stating that the “amount of tax [resulting from removing the EEU and AED deductions] was offset by our deductions to Idaho schools and also to the Idaho Youth Ranch in Payette, Idaho.” Petitioners provided Forms 40 and 39R removing the EEU and AED deductions, increasing CTPOS, and claiming a previously unclaimed credit for contributions to Idaho educational entities. Petitioners had not signed the updated Form 40.

On November 9, 2022, Audit acknowledged the protest and requested documents to substantiate the credits that were not included on the original return. After two follow-up letters, Petitioners did not respond, so Audit sent Petitioners’ file to the Tax Commission’s Appeals unit (Appeals) for administrative review.

Appeals sent Petitioners a letter outlining their options for redetermining a protested Notice, but they did not respond. The Tax Commission has reviewed all information available and hereby issues its decision.

Law and Analysis

Idaho Code section 63-3022B defines the EEU deduction:

63-3022B.DEDUCTION FOR ENERGY EFFICIENCY UPGRADES. (1) An individual taxpayer may deduct from taxable income an amount actually paid or accrued by the individual taxpayer during the taxable year for the actual installation of energy efficiency upgrade measures within any existing residence. As used in this section, "existing residence" means any residence in the state of Idaho that serves as the primary place of residence of the individual taxpayer in being, under construction, or subject to an outstanding legal building permit on or before January 1, 2002.

(2) As used in this section:

(a) "Energy efficiency upgrade measure" means an energy efficiency improvement to the building envelope or duct system that meets or exceeds the minimum value for the improved component established by the version of the international energy conservation code (IECC) in effect in Idaho during the taxable year in which the improvement is made or accrued.

(b) "Energy efficiency upgrade measure" includes:

(i) Insulation that shall be added to existing insulation not in replacement

- of existing insulation;
- (ii) Windows that may replace less efficient existing windows;
- (iii) Storm windows;
- (iv) Weather stripping and caulking; and
- (v) Duct sealing and insulation. Duct sealing requires mechanical fastening of joints and mastic sealant.

Deductions are a matter of legislative grace, and the taxpayer bears the burden of showing that each deduction is allowable by statute. *New Colonial Ice Co. v. Helvering*, 292 US. 435, 54 S.Ct. 788 (1934); *Higgins v. C.I.R.*, T.C. Memo. 1984-330, (1984). The burden rests upon the taxpayer to disclose its receipts and claim its proper deductions. *United States v. Ballard*, 535 F.2d 400 (1976). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed, and the taxpayer must bear its misfortune. *Burnet v. Houston*, 283 US. 223, 51 S.Ct. 413 (1931). Although Petitioners indicated in their response to Audit's initial request for information that they either added to or replaced existing insulation, which could qualify for the EEU deduction if all other qualifications were met, they did not provide requested documentation to support that claim. Also, Petitioners indicated that they were claiming an HVAC system (furnace, air conditioner, coil, humidifier, thermostat) as an EEU measure. This new HVAC system was not an improvement to the building envelope as required by Idaho Code section 63-3022B(2)(a). There was no indication in the documents Petitioners provided to show any improvements to the duct system. Petitioners have not met their burden of proving that they installed any qualifying EEU measures as described in Idaho Code section 63-3022B(2)(a).

Additionally, Idaho Code section 63-3022B(1) states that the home must have existed, been under construction, or had a building permit issued on or before January 1, 2002. In their response to Audit's initial request for information, Petitioners indicated that they installed EEUs in their home located at _____ Idaho, and that the home was built in 2000. According to information available through the Payette County Assessor's public website

(payettecounty.org), the home was built in 2005. Based on this, the home would not have been in existence by January 1, 2002. The Tax Commission finds it highly unlikely that the home would have been under construction or subject to a building permit for over three years before construction was finalized in 2005. Therefore, the home is disqualified from eligibility for the EEU deduction. The Tax Commission finds that Audit's disallowance of the deduction on Petitioners' 2020 Idaho tax return was appropriate.

Idaho Code section 63-3022C defines the AED deduction:

63-3022C.DEDUCTION FOR ALTERNATIVE ENERGY DEVICE AT RESIDENCE.

(1) An individual taxpayer who installs an alternative energy device to serve a place of residence of the individual taxpayer in the state of Idaho may deduct from taxable income the following amounts actually paid or accrued by the individual taxpayer: forty percent (40%) of the amount that is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of the alternative energy device in the year when such device is completed or acquired and is placed in service by the taxpayer; and twenty percent (20%) per year thereafter for a period of three (3) succeeding years; provided, however, that said deduction shall not exceed five thousand dollars (\$5,000) in any one (1) taxable year.

(2) An individual taxpayer who purchases a residence in the state of Idaho served by an alternative energy device for which none or less than all of the total deduction allowable under this section has been taken, may take the deduction specified in this section, or the unused balance of the deduction.

(3) As used in this section, "alternative energy device" means any system or mechanism or series of mechanisms using solar radiation, wind or geothermal resource as defined in section [42-4002](#), Idaho Code, primarily to provide heating, to provide cooling, to produce electrical power, or any combination thereof. Alternative energy device includes a fluid to air heat pump operating on a fluid reservoir heated by solar radiation or geothermal resource. Alternative energy device shall also include either a natural gas heating unit, or a propane heating unit, or a wood burning stove which meets the most current environmental protection agency certification, or a pellet stove which meets the most current industry and state standards, and which natural gas heating unit, or propane heating unit, or wood burning stove which meets the most current environmental protection agency certification, or pellet stove which meets the most current industry and state standards is used to replace during the same tax year a wood burning stove designed for residential heating and that does not meet environmental protection agency requirements for certification, provided the wood burning stove is surrendered to the department of environmental quality or its agent for destruction in accordance with applicable federal and state rules.

Petitioners indicated on their 2020 Idaho tax return that they were claiming the AED deduction for the installation of a “98% HVAC gas furnace.” The gas furnace specified in the documentation Petitioners provided does not use solar radiation, wind, or a geothermal resource to provide heating, cooling, or electrical power. According to Idaho Code section 63-3022C(3), a natural gas heating unit, such as the one Petitioners paid to have installed in their home, may qualify as an AED if it replaces a wood burning stove meeting specific criteria and that wood burning stove is surrendered to the proper government agency for destruction. Petitioners indicated in their response to Audit that they did not replace a wood burning stove with their new gas furnace. Therefore, the Tax Commission finds that the new furnace is not a qualifying AED and Audit’s disallowance of the AED deduction on Petitioners’ 2020 Idaho tax return was appropriate.

Idaho Code section 63-3029 defines the CTPOS, stating in relevant part:

63-3029.CREDIT FOR INCOME TAXES PAID ANOTHER STATE. (1) A resident individual shall be allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on the individual, an S corporation, partnership, limited liability company, estate or trust of which the individual is a shareholder, partner, member, or beneficiary (to the extent attributable to the individual as a result of the individual's share of the S corporation's, partnership's, limited liability company's, estate's or trust's taxable income in another state), for the taxable year by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.

and

(3) (a) Except as provided in subsection (3)(b) of this section: (i) The credit provided under this section to an individual shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the adjusted gross income of the taxpayer derived from sources in the other state as modified by this chapter bears to the adjusted gross income of the taxpayer as modified by this chapter.

When Petitioners filed their 2020 Idaho tax return, they properly claimed a credit for income tax paid to Oregon and provided an Oregon income tax return showing wages and farm

loss reported to Oregon to support that claim. Disallowing the EEU and AED deductions on Petitioners' Idaho return (see above) increases Idaho taxable income and income tax while simultaneously changing the proportion described in Idaho Code section 63-3029(3)(a)(i). These changes result in an increase to CTPOS. The Tax Commission finds that Audit's calculation and allowance of additional CTPOS to be appropriate.

In their protest to the Notice, Petitioners claimed to be eligible for other credits against Idaho income tax, specifically the credit for contributions to Idaho educational entities (defined in Idaho Code section 63-3029A) and the credit for contributions to Idaho youth and rehabilitation facilities (defined in Idaho Code section 63-3029(C), which were not claimed on Petitioners' tax return. Idaho Code section 63-3042 gives the Tax Commission authority to examine relevant documentation to determine the correctness of any return, and Idaho Tax Commission Enforcement and Administration Rule 201.04.a allows the denial of a credit when a taxpayer fails to provide supporting records on request. Audit requested such records from Petitioners multiple times, and Petitioners provided no response. Therefore, the Tax Commission finds no reason to allow any additional credits against Idaho income tax other than the increased CTPOS in the section above.

Audit added interest to Petitioner's tax deficiency. The Tax Commission reviewed this addition and finds it to be appropriate and in accordance with Idaho Code section 63-3045.

Conclusion

The Tax Commission finds that the adjustments in the Notice issued by Audit are appropriate and that no other adjustments are necessary.

THEREFORE, the Notice dated June 27, 2022, and directed to
is hereby AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2020	\$226	\$19	<u>\$245</u>
		TOTAL DUE	\$245

Interest is calculated through November 13, 2023.

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.
