

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-789-791-744
)	
Petitioners.)	DECISION
<hr style="width: 45%; margin-left: 0;"/>)	

(Petitioners) protested the Notice of Deficiency Determination (Notice) dated November 23, 2022. Petitioners disagreed with the adjustments the Income Tax Audit Bureau (Bureau) made to their 2020 and 2021 Idaho individual income tax returns. The Tax Commission reviewed the matter and for the reason stated below modifies the Notice.

BACKGROUND

The Bureau selected Petitioners’ 2020 and 2021 Idaho income tax returns to examine their deductions for the energy efficiency upgrade and alternative energy device, Schedule C activity (construction), and addition of bonus depreciation.

The Bureau requested documentation from Petitioners, and they provided some but not all that was requested. The Bureau reviewed Petitioners’ documentation, determined the allowable expenses and deductions, and sent them a Notice.

In response to the Notice, Petitioners provided more documentation along with a letter explaining some of the expenses claimed on Schedule C, but the letter did not include information for a valid protest. The Bureau acknowledged receipt of the documentation and informed Petitioners of the information needed if it was their intent to protest the Notice.

On January 5, 2023, the Bureau received a perfected protest from Petitioners’ appointed representative, disputing all disallowed items on federal Form 1040 and Schedule C for tax year

2021. Upon receipt of the perfected protest, the Bureau acknowledged the protest and referred the matter to the Tax Commission's Appeals Unit (Appeals).

Appeals sent Petitioners and their appointed representative a letter explaining the options available for redetermining a Notice. Petitioners responded but did not request an informal hearing. Petitioners stated, "we have already submitted every piece of documentation to support our 2021 tax filing" and "we don't have any additional information to submit" as followed by the representative's statement, "we have offered more than sufficient substantiation for our audit."

Seeing that Petitioners had nothing further to provide, the Tax Commission makes its decision on the matter and will only address the Schedule C adjustments to tax year 2021 as Petitioners did not protest the adjustments to tax year 2020 or the adjustments to the alternative energy device and energy efficiency upgrade.

LAW AND ANALYSIS

Internal Revenue Code (IRC) section 162 provides for the deduction of all the ordinary and necessary expenses paid or incurred in carrying on 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 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). 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 were asked to substantiate the following expenses claimed on their Schedule C; cost of goods sold, car and truck expenses, depreciation, rent or lease of vehicles or machinery, supplies and other expenses.

Cost of goods sold

Petitioners provided one receipt from a home improvement store to substantiate the amount shown on their Schedule C. The Bureau reduced their adjustment to cost of goods sold by the amount of the receipt. Petitioners provided additional receipts from home improvement stores and landscaping companies with their unperfected protest, but the Bureau did not further modify the adjustment. Appeals reviewed this documentation, finds it adequate and therefore modifies the Bureau's adjustment to cost of goods sold.

Vehicle expense

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 allocates 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 provided a mileage logbook with the address of each completed job. The Bureau allowed the mileage for the jobs that Petitioners reported gross receipts or sale on Schedule C. Petitioners listed 2 jobs on their job list as provided "on

trade”. The Bureau disallowed the milage for these jobs provided “on trade”. The Bureau identified a mathematical error after issuing the Notice as the adjusted milage was not correctly reflected in the total expenses; however, the Bureau did not modify the Notice for the error before transferring the matter to Appeals. The Tax Commission corrects the Bureau’s mathematical error and upholds the Bureau’s adjustment made to Petitioners’ mileage.

Depreciation

Petitioners claimed depreciation on computer and miscellaneous equipment. To substantiate the purchase of the computer, Petitioners only provided screen shots of the internet listings of the laptop and monitor. This information does not contain the purchaser’s name, delivery address, payment method and date. Petitioners did not adequately substantiate this expense. For purchase of the miscellaneous equipment, Petitioners provided a handwritten list of tools but did not provide any documentation. Without adequate substantiation, no deduction is allowed. Since the depreciation taken on the computer and miscellaneous equipment was disallowed, there is no bonus depreciation add back.

Other expenses

Petitioners claimed expenses for their cell phone and internet usages. Petitioners explained that they had 2 cell phones, and both were used for their Schedule C activity and for W-2 wage jobs. Petitioners provided cell phone and internet bills and stated, “used an allocation of \$100 per month as business expense of the \$264.71 per month...” for cell phone expenses, and “used an allocation of \$50 per month...” for internet usage. The internet bill Petitioners provided shows \$109.99 as their monthly payment. While Petitioners may have used these items for business, they did not provide sufficient documentation to substantiate the amounts shown on the return. There is no information showing the number of phones included on the monthly bill, how the internet

was used for their business or the business use percentages. Additionally, Petitioners allocated business expenses were based on all twelve months of the year; but they failed to provide any documentation showing when the business started. Petitioners have not substantiated these expenses.

In the imposition of a tax, the general rule is that there is a strict presumption against the taxing authority. See *Tandy Leather Company v. United States*, 347 F.2d 693 (5th Cir. 1965). However, in this case Petitioners are claiming deductions to reduce its tax owed and the burden is clearly on Petitioners. Petitioners did not meet the burden in that they did not provide source documentation for most of the deductions claimed. Petitioners did not prove their case.

CONCLUSION

The Bureau adjusted Petitioners' 2021 income tax return because documentation was lacking or inadequate and because the Bureau determined some of the expenses claimed were either personal or had no business purpose.

The Tax Commission reviewed the adjustments and the additional documentation Petitioners provided with the unperfected protest. The Tax Commission found that the additional receipts did substantiate a portion of the cost of goods sold that were previously disallowed. The Tax Commission also found that the Notice had a mathematical error. Therefore, the Tax Commission modifies the Notice to include the additional business expenses for cost of goods sold and corrects the mathematical error.

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 July 20, 2023.

THEREFORE, the Notice of Deficiency Determination dated November 23, 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>
2020	\$(6)	\$0	\$0	\$(6)
2021	910	46	44	<u>1,000</u>
			TOTAL DUE	<u>\$994</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.
