

information. Petitioner did provide documentation consisting of bank statements, a credit card year-end summary for 2016, and a few credit card statements for 2017. The Bureau reviewed the documentation Petitioner provided but had difficulty matching the documentation with the entries on Petitioner's returns. The Bureau allowed the expenses it could categorize and modified the Notice of Deficiency Determination. The Bureau sent Petitioner the modified Notice of Deficiency Determination and asked Petitioner to withdraw her protest. Petitioner contacted the Bureau about the modified notice with questions regarding the amount allowed for equipment rental. Petitioner provided additional documentation that the Bureau reviewed and made further modifications to the Notice of Deficiency Determination. However, because Petitioner did not withdraw her protest, the Bureau referred the matter to the Tax Commissions Appeals Unit (Appeals).

Prior to the Tax Appeals Specialist reviewing the case, Petitioner contacted the specialist to discuss her case. After a brief discussion it was determined the best course of action was to develop a list of questions and concerns, send them to Petitioner, and then schedule a hearing. The specialist asked for a few weeks to review and develop the case. Two and a half years later and after the departure of the specialist, Petitioner's case was reassigned to another Tax Appeals Specialist who reviewed the case, and seeing that Petitioner did not get a hearing, sent Petitioner a letter asking if she still wanted a hearing.

Petitioner contacted Appeals stating she was surprised by the letter. Petitioner thought the matter had been concluded based on conversations she had with the prior specialist. Appeals told Petitioner there was no record of her case being closed and that the prior specialist had left the Tax Commission. Petitioner stated she owned a trucking business that she reported on her personal returns. She stated it was expenses from that business that were disallowed by the Bureau. Petitioner thought the prior specialist had closed the case. She stated he and the auditor reviewed her returns and decided

her returns were acceptable. Petitioner stated the specialist was going to have her returns processed and close the matter. Petitioner stated she had all the emails from the specialist that she could send to Appeals so Appeals could see what happened. Appeals asked Petitioner to send the emails and told her that a comprehensive review of her case would be done. Petitioner did not send the emails, so after thoroughly reviewing the case, Appeals sent Petitioner a letter explaining its findings and requesting documentation that had not previously been provided.

Petitioner contacted Appeals after receiving the letter and explained some of the questioned items. Petitioner stated the list of expenses Appeals sent her was mostly for contracted freight. Appeals asked if those expenses would have been reported as contract labor. Petitioner stated that was likely the case since her contract labor and contracted freight are essentially the same thing. Petitioner stated the payments to “ were loans to LLC, a restaurant she partially owned, to pay bills and meet payroll. Petitioner stated the payments to and were lease payments on the trucks. When asked about 2017’s contract labor and utilities, Petitioner stated her accountant had a habit of putting fuel costs as utilities, which resulted in an extremely high utility expense. Petitioner stated that because of a legal issue with one of her past partners, she had to park all but one of the company trucks in May 2017, and the rest of the hauling was hired out. Consequently, Petitioner reported less income and fewer expenses than reported in 2016.

Appeals told Petitioner that the documentation for 2017 was incomplete, and asked if she had the same type of documentation for 2017 that she provided for 2016. Petitioner thought she did but was not sure she had all of it. Petitioner stated all this information was provided to the previous specialist and he recategorized the expenses and said everything was okay. Nevertheless, Petitioner stated she would put together the requested information and try to send it the following Monday.

Petitioner did provide some of the requested information, which Appeals reviewed and

allowed as business expenses. However, Petitioner was unable to provide all her fuel costs documentation. Petitioner stated she requested copies of her year-end summary from the credit card company. Petitioner was told by the company that they would have to get permission from the bankruptcy court to release that information to her. Petitioner stated her records were part of the legal matter against her ex-partner and the court had all the documentation. Petitioner stated she thought she could get her records from the court; however, it turned out she could not. Seeing that Petitioner provided all the documentation and information she could get, the Tax Commission decided the matter based on the information available.

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 35.02.01.200 provides that, "A taxpayer shall maintain all records that are necessary to a determination of the correct tax liability." See also IRC section 6001; Treasury Regulation section 1.6001-1(a).

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). 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).

Petitioner is the owner of a trucking service business. In 2016, Petitioner reported nearly \$1.5 million in gross receipts from the business. As one would expect, Petitioner also reported significant operating expenses for the business. For 2017, Petitioner's gross receipts were about half of 2016 and so were her business expenses. Petitioner stated that in 2017 she had to park most of her trucks for half the year because of legal issues with a former partner.

When the Bureau selected Petitioner's business to review, it asked Petitioner to document all the business expenses. Petitioner did not respond to that request, so the Bureau disallowed select expenses and sent Petitioner a Notice of Deficiency Determination. After protesting the Bureau's determination, Petitioner provided some of the requested documentation. The Bureau reviewed that information and modified its determination. Petitioner did not withdraw her protest but instead submitted more information to substantiate her business expenses. The Bureau also reviewed that information and made further modifications to its determination. At that point, the Bureau referred the matter to Appeals to begin the administrative review process.

During the administrative review, Petitioner provided more information regarding the documentation she provided. Appeals went through Petitioner's documentation again with the new information and found additional expenses that could be allowed. Appeals asked Petitioner to provide documentation not provided for 2017. Petitioner provided additional bank statements with cancelled checks but was unable to provide credit card statements due to the ongoing legal matter the authorities had with her former partner. The cancelled checks verified Petitioner's contract labor for all but January and February of 2017. However, based on Petitioner's statements, the Tax Commission estimated January's and February's contract labor by looking at November 2016, December 2016,

March 2017, and April 2017 contract labor amounts. The Tax Commission's total contract labor closely approximated the amount claimed on Petitioner's return. Therefore, the Tax Commission accepts Petitioner's contract labor amount and adjusts the Notice of Deficiency Determination accordingly.

As previously stated, Petitioner bears the burden of showing she incurred the expenses claimed and that they are deductible expenses. Petitioner substantiated the 2016 expenses and the 2017 Contract Labor; however, she was unable to fully substantiate the Utilities(Fuel) claimed in 2017. However, knowing that Petitioner operated a trucking business and trucks operate on fuel, it is well within the Cohen rule to estimate Petitioner's fuel costs for 2017. (A court should allow the taxpayer some deductions if the taxpayer proves he is entitled to the deduction but cannot establish the full amount claimed. *Edelson v. C.I.R.*, 829 F.2d 828 (1987) citing *Cohan v. Commissioner*, 39 F.2d 540, 544 (2d Cir.1930).)

Petitioner provided documentation showing her 2017 fuel costs for part of January, part of February, part of May, and part of June. Petitioner also provided bank statements for most of 2017 showing electronic payments to the credit card company where most, if not all, of the fuel was charged. Considering that documentation alone, Petitioner expended more than the amount claimed as fuel. Looking at it another way, the Tax Commission checked the ratio of 2016 fuel costs to gross receipts compared to 2017 claimed fuel costs to gross receipts. After factoring in an inflation factor for the rise in fuel prices in 2017, the amount for fuel Petitioner claimed for 2017 was within a few hundred dollars using the ratio method. Since the two methods for estimating Petitioner's fuel costs closely approximated what Petitioner claimed, the Tax Commission decided Petitioner's figure for her fuel costs for tax year 2017 was reasonable. Therefore, because Petitioner documented or verified all of the expenses claimed in 2016 and provided adequate evidence the expenses claimed in 2017

were legitimate expenses for her trucking business, the Tax Commission finds all expenses accounted for and the Notice of Deficiency Determination should be cancelled.

CONCLUSION

The Bureau adjusted Petitioner's 2016 and 2017 income tax returns because she did not provide documentation for select business expenses. The Bureau subsequently modified its determination based on documentation Petitioner later provided. During the appeal process, Petitioner provided additional information about the documentation she submitted and provided additional documentation. From this, the Tax Commission determined Petitioner provided adequate evidence of the expenses claimed.

THEREFORE, the Tax Commission CANCELS the Notice of Deficiency Determination dated November 13, 2019, directed to

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
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.
