

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of

████████████████████
██████████

Petitioners.

)
) DOCKET NO. 1-535-539-200
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DECISION
)

The Idaho State Tax Commission (Commission) reviewed your case and this is our final decision. We uphold the Notice of Deficiency Determination (Notice) dated May 10, 2018. This means **you need to pay \$1,753** of tax, penalty and interest for taxable years 2015 and 2016. The Commission now DEMANDS immediate payment of this amount.

BACKGROUND

████████████████████ (Petitioners) were Idaho residents for the years under review. For taxable years 2015 and 2016, Petitioners timely filed their Idaho resident income tax returns. In 2015, ██████████ earned wages from ██████████ for the first three months of the year and then in August 2015 he became a ██████████ for ██████████. ██████████ continued to work for ██████████ as an independent contractor in taxable year 2016.

On February 14, 2018, the Income Tax Audit Bureau (Audit) notified Petitioners their 2015 and 2016 returns were being examined and that additional documentation was needed. The specific issues under review were Petitioners' Schedule C, Form 8829, Business Use of Home, and deductions claimed on Idaho Form 39R. During the examination Petitioners adequately substantiated only a small part of the expenses claimed. Therefore, Audit issued a Notice on May 10, 2018, disallowing or reducing the expenses claimed on Petitioners' Schedule C and their Idaho Form 39R.

Petitioners, through their appointed representative, protested the Notice, arguing that all expenses claimed are reasonable, ordinary and necessary and therefore no additional monies are owed to the Commission. Audit acknowledged Petitioners' protest and referred the matter to the Appeals unit for administrative review. An informal hearing was held on March 12, 2019. Petitioners provided no additional documentation during the hearing or at any time during the administrative review process.

ISSUES

The review of Petitioners' Schedule C centered on the following expenses:

- Car and truck expenses
- Legal and professional services
- Office expenses
- Repairs and maintenance
- Taxes and licenses
- Utilities
- Other Expenses
- Business use of home

Audit adjusted each of these items. However, Petitioners' protest letter only expressed disagreement with the Schedule C adjustments to car and truck expenses, other expenses and business use of the home, in addition to the Form 39R adjustment and the imposition of the negligence penalty. The Commission has reviewed all information available and upholds all adjustments for the reasons that follow.

LAW AND ANALYSIS OF ISSUES

Idaho Code § 63-3042 authorizes the Idaho State Tax Commission to examine any books, papers, records, or other data necessary, to ascertain the correctness of a return. Tax Commission Administration and Enforcement Rule 201.04.(a). authorizes the Idaho State Tax Commission to disallow claimed deductions if a taxpayer fails to produce records supporting information shown on a tax return.

Car and truck expenses

On their 2015 return Petitioners claimed a \$2,350 deduction for car and truck expenses, saying in their protest letter that it is allowable because:

“Mileage was reimbursed to the taxpayer at the rate of \$0.15 per mile. The Internal Revenue Service allows \$0.57.5 per mile. The difference is claimed on Schedule C and is an allowable expense.”

When claiming a deduction for business use of a personal vehicle, taxpayers have the option of claiming deductions based on the actual costs of using a vehicle, or the standard mileage rates, but they may not claim both. *See* Internal Revenue Code §§ 274-5- (g) and 274-5- (c).

In 2015, [REDACTED] used a company vehicle for several months of the year, was out of the country for four months, and used his personal vehicle for the months of August through December. Based on documentation provided by Petitioners, [REDACTED] employer paid for fuel, car washes, parking fees, and \$0.15 per mile, when [REDACTED] used his personal vehicle. Petitioners chose the actual cost of using a vehicle, and they were reimbursed by [REDACTED] employer. No additional car and truck expenses are deductible.

Other expenses

Petitioners claimed a deduction for other expenses in both 2015 and 2016. No receipts were provided for the other expenses claimed on the 2015 return. Without adequate substantiation, no deduction is allowed. Petitioners did provide substantiation for a portion of the other expenses claimed in 2016, accounting and telephone, and these expenses were allowed.

Business use of home

Petitioners' 2015 return included Form 8829, Business Use of Home, which showed 10% business use and direct expenses totaling \$4,902. Included in this amount were expenses for insurance, repairs/maintenance, utilities and landscaping. These are not direct expenses, benefiting

only the portion of the house used for business, but rather indirect expenses benefiting the entire home. Therefore, only 10% of expenses shown on the 2015 Form 8829 are allowable deductions.

Petitioners' 2016 return did not include Form 8829. However, according to Petitioners' protest letter, home office expenses were mistakenly claimed on Schedule C instead of Form 8829, due to an input error which could be corrected. A corrected form was not provided during either the audit or the administrative appeal.

Idaho Form 39R Deductions

Idaho Code § 63-3022P allows a health insurance deduction if it has not been previously deducted in computing Idaho taxable income. Idaho Income Tax Administrative Rule 121 states in relevant part: "A deduction from taxable income is allowed for the amounts paid by the taxpayer during the taxable year for insurance that constitutes medical care."

Petitioners' 2015 and 2016 Idaho returns show a deduction on Idaho Form 39R for health insurance premiums: \$9,606 and \$5,527, respectively. Audit requested Petitioners provide substantiation for these amounts, but they did not. However, Petitioners did provide bank statements that show monthly payments to Blue Cross, CMS Medicare supplement insurance, and Delta Dental insurance. Audit scheduled these payments for both 2015 and 2016 and the substantiated expenses were allowed.

Idaho Code § 63-3022Q allows a deduction for premiums paid for long-term care insurance. Petitioners' 2015 Idaho Form 39R shows a deduction for long-term care insurance. The deduction was adequately substantiated; therefore, no adjustment was made. Petitioners did not claim a deduction for long-term care insurance in 2016. However, the documentation provided to substantiate the 2015 deduction also adequately substantiated the payment of long-term care insurance premiums for 2016. Therefore, an adjustment was made by Audit to allow a deduction

for 2016, even though one was not claimed on the return filed by Petitioners.

Penalty

The penalty asserted by Audit was a negligence penalty in accordance with Idaho Code § 63-3046(a)¹, and Tax Commission Administration and Enforcement Rule 410.01² and 410.02³. The penalty assertion was reviewed and found applicable.

CONCLUSION

Deductions are a matter of legislative grace and the taxpayer bears the burden of proof to show that the deduction claimed is within the applicable statute. *New Colonial Ice Co. v. Helvering, supra*. See also Higgins v. C.I.R., T. C. Memo. 1984-330 (1984). The burden rests upon the taxpayer to disclose his receipts and claim his 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 that taxpayer must bear his misfortune. *Burnet v. Houston*, 283 U.S. 223, 51 S.Ct. 413 (1931). For the majority of expenses under review in this matter, Petitioners simply did not produce the required receipts and other documentation required for the deduction. Therefore, Petitioners must bear their misfortune and pay the additional tax associated with the disallowed deductions.

Therefore, the Notice dated May 10, 2018, and directed to [REDACTED]

[REDACTED], is hereby AFFIRMED by this decision.

¹ Idaho Code section 63-3046(a) states that if any part of any deficiency is due to negligence or disregard of rules but without intent to defraud, five percent (5%) of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.

² Negligence is the breach of duty or obligation, recognized by law, that requires conformance to a certain standard of conduct.

³ A five percent (5%) negligence penalty shall be imposed if the deficiency results from either negligence by the taxpayer or from disregard by the taxpayer or his agent of state or federal tax laws, rules of the Tax Commission, or Treasury Regulations.

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>
2015	\$1,115	\$56	\$166	\$1,337
2016	358	18	40	416
			TOTAL DUE	<u>\$1,753</u>

Interest is calculated through December 31, 2019.

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

DATED this _____ day of _____ 2019.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2019,
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.

Copy to:

