

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 2-040-898-560
)	
Petitioners.)	DECISION
<hr style="width: 45%; margin-left: 0;"/>)	

The Notice of Deficiency Determination (Notice) dated December 12, 2023, for tax year 2020 and issued to _____ (Petitioners) was protested.¹ The Tax Commission reviewed the matter and hereby issues its final decision to uphold the Notice.

Background

Petitioners filed federal and Idaho income tax returns for tax year 2020 jointly as a married couple. On Idaho Form 49, *Investment Tax Credit*, Petitioners claimed to earn a total of \$2,607 in investment tax credit (ITC) based on acquiring \$86,900 of qualified investments during the tax year.

The Tax Commission’s Audit Division (Audit) selected this return for examination. After reviewing available information, Audit issued the Notice on December 12, 2023, denying all ITC earned. Mrs. _____ responded via email on December 27, 2023, stating that she disagreed with the Notice. She wrote, “I have had multiple computers, cell phone, office chair, makeup, and jewelry that I have used to try and provide extra income.”

¹ Audit notes indicate direct interaction only with Mrs. _____. It appears that Mr. _____ did not respond to any correspondence during the examination process.

In a reply on January 2, 2024, Audit stated that the credit was denied because the only item listed as qualifying property was an address.² Audit asked if the assets on which they claimed ITC were related to the two rental properties reported on their 2020 federal Schedule E. Mrs. [REDACTED] wrote back stating that: she didn't have any rentals; Mr. [REDACTED] had bought a home in another state which was never rented in 2020; they tried to fix it to rent or move to, but that never materialized; they were now divorced.

Audit then replied that Petitioners' 2020 joint return shows rentals and stated that the credit was taken on "[REDACTED] which is a building, and that buildings do not qualify for ITC. Audit asked what assets they claimed ITC on. Mrs. [REDACTED] then replied, "Our vehicle and cell phone, laptops for the rental property, personal equipment for repairs, clothing, foot wear for rental related issues. Mostly the vehicles, laptop, and cell phones was my understanding."

Audit then asked for documentation to support the purchase of qualifying assets, without which the case would be transferred to the Tax Commission's Appeals unit (Appeals). Mrs. [REDACTED] indicated she did not have any documentation, so Audit transferred the case to Appeals.

Appeals sent Petitioners each a letter outlining the options available for redetermining a protested Notice. Neither Petitioner responded to the letter. The Tax Commission now renders its decision based on information currently available.

Law & Analysis

Idaho Code section 63-3029B allows taxpayers to claim ITC equal to 3% of the value of "qualifying investments." Qualifying investments must be used in Idaho in a trade or business,

² Form 49, Line 1a asks for the amount of qualified investments and states, "Include a complete list." Petitioners' description of the ITC property was "[REDACTED] which matches the home address Petitioners reported on their federal and Idaho tax returns.

have a useful life of at least three years, be property that can be depreciated or amortized, and fall into one of these categories:

- Tangible personal property – machinery and equipment
- Other tangible property
 - Property used as an integral part of manufacturing, production, extraction
 - Furnishing transportation, communications, or utility services
 - Research facilities and bulk storage facilities used in connection with those businesses
- Elevators and escalators
- Single-purpose agricultural or horticultural structures
- Qualified timber property
- Petroleum storage facilities
- Qualified broadband equipment as approved by the Idaho Public Utilities Commission

Nonqualifying property includes, but is not necessarily limited to, the following:

- Buildings and their structural components
- Property used in lodging facilities that rent 50% or more of their lodging units for periods of 30 days or longer, such as apartment houses or rental homes
- The cost of property expensed under IRC section 179
- Used property not acquired by purchase
- The portion of property used for personal use
- Used property in excess of \$150,000 (total of all properties)
- Horses
- Property not used in Idaho
- Vehicles under 8,000 pounds gross vehicle weight (GVW)
- Property previously used by the same taxpayer or an affiliate of the taxpayer

Income Tax Administrative Rule 716, *Idaho Investment Tax Credit: Record-keeping*

Requirements, reads in pertinent part:

01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the investment tax credit claimed on an income tax return subject to examination. The records must include all of the following:

- a. A description of the property;
- b. The asset number assigned to the item of property, if applicable;
- c. The acquisition date and date placed in service;
- d. The basis of the property;
- e. The class of the property for recovery property or the estimated useful life for nonrecovery property;

- f. The designation as new or used property;
- g. The location and utilization (the usage both in and outside Idaho) of the property;
- h. The retirement, disposition, or date transferred out of Idaho, or date no longer used in Idaho, if applicable; and
- i. The reason for acquisition if acquired prior to January 1, 1995.

and also:

03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed.

Audit requested records pertaining to whatever property Petitioners claimed ITC on, but Petitioners did not produce any. Therefore, the Tax Commission determined that Petitioners are not eligible for the ITC they claimed to earn on their 2020 Idaho return.

The Bureau added interest and penalty to Petitioners' tax deficiency. The Tax Commission reviewed those additions and finds them to be appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

Conclusion

Petitioners claimed ITC earned and used on their 2020 Idaho income tax return. They did not provide any documentation to substantiate earning the credit, so the Tax Commission denied it.

THEREFORE, the Notice dated December 12, 2023, and directed to
is hereby UPHeld and MADE FINAL.

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>
2020	\$967	\$48	\$89	\$1,104

The Tax Commission DEMANDS immediate payment of this amount. Interest is calculated in accordance with Idaho Code section 63-3045.

An explanation of Petitioners' 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.
