STATE OF MINNESOTA | TAX COURT

COUNTY OF PINE | REGULAR DIVISION

Grant Sommerhauser,
Hunter Sommerhauser,
Appellants,

vs.

Commissioner of Revenue,

Appellee.

ORDER GRANTING SUMMARY JUDGMENT

Docket Nos.: 9732-R, 9731-R

These consolidated matters came before the Honorable Beverly J. Luther Quast, Chief Judge of the Minnesota Tax Court, on the Commissioner of Revenue's motion for summary judgment.

Appellants Grant Sommerhauser and Hunter Sommerhauser are self-represented.

Wendy Tien, Assistant Minnesota Attorney General, represents Appellee Commissioner of Revenue.

Appellants challenge their April 23, 2025 Minnesota Department of Revenue Tax Orders ("Order" or "Orders"), reporting taxes due. The Commissioner brings this motion for summary judgment on the grounds that there are no material facts in dispute and, as a matter of law, the Commissioner's Orders should be affirmed. The court, having considered all the files, records, arguments, and proceedings herein, now makes the following:

ORDER

The Appellee's motion for summary judgment is granted.

IT IS SO ORDERED. THIS IS A FINAL ORDER. LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

Beverly J. Luther Quast

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Beverly J. Luther Quast, Chief Judge
MINNESOTA TAX COURT

Dated: July 1, 2026

MEMORANDUM

I. FACTS AND PROCEDURAL HISTORY

A. The Audit

Appellants Hunter Sommerhauser and Grant Sommerhauser are equal shareholders in H&G Auto Sales, LLC ("H&G"), which sold used vehicles in Princeton, Minnesota, during 2021 and 2022.[1] On December 18, 2023, the Department of Revenue ("DOR") commenced a partnership tax audit of H&G for the tax years ending December 31, 2021 (the "2021 return"), and December 31, 2022 (the "2022 return").[2] H&G's business purpose, according to its website at the time, was as "a used vehicle dealer offering quality vehicles at very fair prices. Our goal is to make the buying process simple and stress free."[3] Because Appellants owned H&G in equal shares, the Commissioner also commenced individual income tax audits of both Appellants on the same date.[4]

[1] Declaration of John Doty (signed March 3, 2026) ¶¶ 2, 3.

[2] Doty Decl. ¶ 2.

[3] Doty Decl. ¶7, Ex. A, at 4; ¶ 12, Ex. B, at 3.

[4] Doty Decl. ¶ 3.

The purpose of the audits was to review the business income and expenses reported on H&G's tax returns for the years at issue.[5]

During the audit, Appellants provided certain of the requested books and records to the Commissioner for the years at issue, including bank statements, credit card statements, and general ledger spreadsheets.[6] The Appellants also provided a box of vehicle sale and purchase invoice documents for 2021 and 2022 (the "Sale Documents").[7] The Sale Documents were separated by year, and each year had a handwritten note that included the following totals:

> 2021 Purchase $1,370,319; Sale $1,349,004.62[8]
> 2022 Purchase $3,082,829; Sale $3,049,125.08[9]

Based on the audit, the Commissioner adjusted H&G's ordinary business income as follows:

1. **Gross Receipts/Sales and Purchases**

H&G reported $819,861 in gross receipts and ordinary business loss (net income) of -$547 on its 2021 return.[10] On its 2022 return, H&G reported $2,327,497 in gross receipts, and ordinary

[5] Doty Decl. ¶7, Ex. A, at 4; ¶12, Ex. B, at 3. DOR audited H&G as a partnership in 2021 and as an LLC/S-Corp in 2022. Doty Decl. ¶¶ 8, 13. H&G filed federal a federal partnership tax return (Form 1065) for 2021 and an S-Corp tax return (Form 1120-S) for 2022. *Id.*; *see also* Return and Answer (filed Aug. 7, 2025), Ex. 10, at 14; Ex. 11, at 12 (Nos. 9731-R & 9732-R). In the case of partnerships and S-Corporations such as H&G, income (or loss), as well as deductions and credits, are first determined on the entity level and then passed through to the individual shareholder or partner on a pro rata basis. Minn. Stat. §§ 290.9725 (2024), 290.9726 (providing for taxation of S-Corporation income to shareholders); 290.31, subd. 1 (providing that partners, not partnerships, shall be liable for income tax in their separate or individual capacities).

[6] Doty Decl. ¶ 5.

[7] Doty Decl. ¶ 5.

[8] Doty Decl. ¶ 9, Ex. A, at 5.

[9] Doty Decl. ¶ 14, Ex. B, at 4.

[10] Doty Decl. ¶ 8, Ex. A, at 4.

business income (net income) of $56,029.[11] The Commissioner determined, upon audit, that the gross receipts on the returns were inconsistent with the gross sales documented in H&G's bank accounts and the Sale Documents.[12] As the Sale Documents showed sales revenue that was not deposited into H&G's bank accounts, the Commissioner relied on the gross sales from the Sale Documents to establish gross receipts.[13] The differences in income and vehicle purchases in 2021 and 2022 are depicted in Table 1, below:

Table 1: Gross receipts comparison[14]

Year	A: Gross Receipts per 1065/1120-S Returns (as filed)	B: Gross Sales per Sale Documents	C: Gross Sales Net Change (B - A)	D: Purchases per Return	E: Purchases per Sale Documents	F: Purchases Net Change (E - D)
2021	$819,861	$1,349,005[15]	**$529,144**	$617,482	$617,482[16]	**$0**
2022	$2,327,497	$3,049,125[17]	**$721,628**	$1,887,930	$1,887,930[18]	**$0**

H&G's return reported vehicle purchases of $617,482 in 2021 and $1,887,930 in 2022.[19] Upon audit, however, H&G claimed that vehicle purchases totaled $1,370,319 in 2021 and $3,082,829 in 2022.[20] The Commissioner determined upon audit that the Appellants' vehicle

[11] Doty Decl. 13, Ex. B, at 3.

[12] Doty Decl. ¶ 6.

[13] Doty Decl. ¶ 8, Ex. A, at 7; ¶13, Ex. B, at 6.

[14] Comm'r's Mem. Law Supp. Mot. Summ. J. App A-1 (filed Mar. 3, 2026).

[15] Doty Decl. ¶ 8, Ex. A, at 5, 7.

[16] Doty Decl. ¶ 9, Ex. A, at 11.

[17] Doty Decl. ¶ 13, Ex. B, at 4, 6, 9.

[18] Doty Decl. ¶ 14, Ex. B, at 10.

[19] Doty Decl. ¶9, Ex. A, at 11; ¶14, Ex. B, at 10.

[20] Doty Decl. ¶9, Ex. A, at 5; ¶14, Ex. B, at 4.

purchases reported on the tax returns were not supported by either H&G's bank statements or the Sales Documents.[21]

2. **Business Expenses**

During the audit, the Commissioner disallowed $5,169 in utilities deductions for 2021 because H&G did not demonstrate or document that they were business expenses.[22] Through an analysis of H&G's bank statements, the Commissioner allowed $181,672 in deductions in addition to those Appellants claimed on the 2021 return.[23] Similarly, for 2022, the Commissioner disallowed $10,444 in utilities deductions,[24] and allowed $641,496 of deductions in addition to those Appellants claimed on the 2022 return.[25] Table 2 below depicts the comparison of deductions on returns as filed and the deductions allowed based on the Commissioner's analysis of H&G's bank statements.

Table 2: Business Expense comparison[26]

Year	A: Utilities expense per 1065/1120-S Return (as filed)	B: Utilities expense per review of H&G records	C: Utilities Net Change (B - A)	D: Expenses from Bank Statements as claimed on 1065/1120-S	E: Expenses from Bank Statements per audit review	F: Net Change (E - D)
2021	$11,320	$6,151[27]	**($5,169)**	$0	$181,672[28]	**$181,672**
2022	$10,444	$0[29]	**($10,444)**	$0	$641,496[30]	**$641,496**

[21] Doty Decl. ¶ ¶ 9, 14.

[22] Doty Decl. ¶ 10, Ex. A, at 8, 11, 24.

[23] Doty Decl. ¶ 11, Ex. A, at 11.

[24] Doty Decl. ¶ 15, Ex. B, at 7, 10, 25-26.

[25] Doty Decl. ¶ 16 & Ex. B, at 7, 10.

[26] Comm'r's Mem. Law Supp. Mot. Summ. J. App A-2.

[27] Doty Decl. ¶ 10, Ex. A, at 8, 11, 24.

[28] Doty Decl. ¶ 11 & Ex. A, at 11.

[29] Doty Decl. ¶ 15, Ex. B, at 7, 10, 25-26.

[30] Doty Decl. ¶ 16 & Ex. B, at 7, 10.

As a result of the audit, the Commissioner calculated the change in total ordinary business income for H&G, and the amount that passed through to each Appellant for purposes of these appeals, as follows:

Table 3: Change in Each Appellant's Schedule E (Income or Loss from Partnership/S Corp) from H&G [31]

Year	A: Change in Gross Receipts (Table 1, C)	B: Change in Deductions (Table 2, C + F)	C: Change in Ordinary Business Income (or Loss) (Table 3, A - B)	Each Appellant's 50% Share to Individual Income Tax Return, Schedule E (Table 3, C ÷ 2)
2021	$529,144	$176,503	$352,641	**$176,321**
2022	$721,628	$631,052	$90,576	**$45,288**

As each Appellant held an equal 50 percent interest in H&G, the adjustments to H&G's ordinary business income based on its audit were passed through in equal shares to each Appellant for income tax purposes.[32]

Upon the completion of the audits, on April 17, 2025, the Commissioner issued an Order, with a Notice Date of April 23, 2025, assessing a total of tax, interest, and penalties in the amount of $19,128.63 as to Hunter Sommerhauser for 2021 and 2022 together.[33] The Commissioner also issued an Order with a Notice Date of April 23, 2025, assessing a total of tax, interest, and penalties in the amount of $15,934.47, as to Grant Sommerhauser for 2021,[34] and a separate Order with a

[31] Comm'r's Mem. Law Supp. Mot. Summ. J. App A-3.

[32] Doty Decl. ¶ 17, Ex. A, at 14, Ex. B, at 12, 18.

[33] Doty Decl. ¶ 18, Ex. C.

[34] Doty Decl. ¶ 19, Ex. D.

Notice Date of April 23, 2025, assessing a total of tax, interest, and penalties in the amount of $3,869.70 as to Grant and his spouse Natalie Sommerhauser for 2022.[35]

B. Appellants' Appeals

On June 9, 2025, the Appellants timely filed a Notice of Appeal with this court, alleging that "[o]ur auditor purposely didn't read through our proof of documents and just issued the tax order and closed the audit."[36] Upon joint motion of the parties, the court consolidated these matters,[37] and a scheduling order was issued with a discovery deadline of February 24, 2026.[38]

The Commissioner served a first discovery request on Appellants on October 14, 2025.[39] On November 3, 2025, Appellants delivered a box of documents to Commissioner's counsel, comprising 1,476 pages of purchase and sale records for H&G.[40] Upon the Commissioner's review, these documents were identical to the Sale Documents reviewed during the audit.[41] Appellants emailed the Commissioner's counsel to explain that "[t]he paperwork proves that we made no money if you choose not to accept it I don't know what to tell you. … Use your two eyeballs and look at all the paperwork and you'll see that no money was made very clear."[42]

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[35] Doty Decl. ¶ 20, Ex. E. The Commissioner issued separate tax orders as to Grant and Natalie Sommerhauser for 2022 and for Grant Sommerhauser only in 2021 because of a change in marital status between the two tax years. *Id*.

[36] Not. Appeals (filed June 9, 2025). The appellants also requested administrative appeal on May 27, 2025, which was denied on June 13, 2025 as being statutorily foreclosed due to the pending tax court appeal. Return and Answers, Exs. 4-5 (No. 9731-R), Exs. 4-5 (No. 9732-R).

[37] Order Granting Joint Mot. Consolidate (filed Aug. 26, 2025).

[38] Stipulated Scheduling Order (filed Sept. 23, 2025).

[39] Declaration of Wendy Tien (signed Mar. 3, 2026) ¶ 4, Ex. B.

[40] Tien Decl. ¶ 5.

[41] Doty Decl. ¶ 24.

[42] Tien Decl. ¶ 6, Ex. C.

The Appellants did not answer any of the Commissioner's discovery interrogatories, or provide any responsive documents, other than the box of documents.[43]

On February 11, 2026, the Commissioner served a second discovery request on Appellants. The second request narrowed down some of the items from the first request, and the Commissioner indicated that Appellants' response might help reduce their liability.[44] Appellants refused to answer the Commissioner's second discovery request, stating the Commissioner "[has] all the documents you need."[45]

The Commissioner filed this motion for summary judgment, arguing the Commissioner's Orders are correct and should be affirmed.[46] Appellants did not submit a written response in opposition to the Commissioner's motion or submit any documentation as exhibits to the court. A hearing on the motion was held on April 1, 2026. At the hearing, the Appellants opposed the motion, arguing they did not make income from their business as their vehicle purchases totaled $1,370,319 in 2021 and $3,082,829 in 2022.[47] Because we agree with the Commissioner that his Orders are correct, we grant his motion for summary judgment.

[43] Tien Decl. ¶¶ 6, 8, Exs. C, E.

[44] Tien Decl. ¶ 7, Ex. D.

[45] Tien Decl. ¶ 8, Ex. E.

[46] Comm'r's Notice Mot. & Mot. Summ. J. (filed Mar. 3, 2026); Comm'r's Mem. Law Supp. Summ. J. 1.

[47] Appellants displayed a handwritten note at the hearing with their view of the total gross receipts and vehicle purchases. The Appellants' "sold" number agreed with the Commissioner's view of gross sales upon audit of the Sales Documents ($1,349,004.62 for 2021 and $3,049,125.08 for 2022), but the Appellants' "purchase" number for vehicle purchases did not agree with the Commissioner's view upon audit (Appellants provided "purchase" values of $1,370,319 for 2021 and $3,082,829 for 2022). *See* Doty Decl. ¶9, Ex. A, at 5; ¶14, Ex. B, at 4. After the hearing, Appellants sent the handwritten note from the hearing to Commissioner's counsel via email, who forwarded the note and email to the court in the interest of fairness and transparency. *See* Letter from Wendy Tien to Court Administrator (dated Apr. 6, 2026).

II. LEGAL STANDARD

A. Summary Judgment

A party is entitled to summary judgment if "the movant shows that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Minn. R. Civ. P. 56.01. Summary judgment motions "permit[] the court to make a prompt disposition of an action on the merits if there is no genuine dispute regarding the material facts, and a party is entitled to judgment under the law applicable to such established facts." *Humana MarketPoint, Inc. v. Comm'r of Revenue*, No. 9570-R, 2024 WL 4997432, at *6 (Minn. T.C. Nov. 21, 2024) (citing *In re Bush's Est.*, 224 N.W.2d 489, 503 (Minn. 1974)).

A party asserting no genuine issue exists can do so by citing to the record or by showing the adverse party "cannot produce admissible evidence to support the fact [at issue]." Minn. R. Civ. P. 56.03(a)(1)-(2). "A genuine issue of material fact exists when reasonable minds can draw different conclusions from the evidence presented." *Rygwall, as Tr. for Rygwall v. ACR Homes, Inc.*, 6 N.W.3d 416, 427 (Minn. 2024) (citation omitted). "Summary judgment is appropriate when the record shows a complete lack of proof on any essential element of [a party's] claim." *Hous. & Redevelopment Auth. of St. Paul v. Lambrecht*, 663 N.W.2d 541, 547 (Minn. 2003) (citation omitted).

"When a motion for summary judgment is made and supported, the nonmoving party must present specific facts showing that there is a genuine issue for trial." *DLH, Inc. v. Russ*, 566 N.W.2d 60, 69 (Minn. 1997) (cleaned up). A genuine issue for trial must be established by "'substantial evidence,' [which] 'refers to legal sufficiency and not quantum of evidence.'" *Id.* at 69-70 (quoting *Murphy v. Country House, Inc.*, 240 N.W.2d 507, 512 (Minn. 1976)).

The nonmoving party must direct the court to locations in the record supporting their challenge. *See Rodgers v. City of Des Moines*, 435 F.3d 904, 908 (8th Cir. 2006) ("Without some guidance, we will not mine a summary judgment record searching for nuggets of factual disputes to gild a party's arguments."); *Johnson v. Soo Line R.R. Co.*, 463 N.W.2d 894, 899 n.7 (Minn. 1990). A "party resisting summary judgment must do more than rest on mere averments." *DLH, Inc. v. Russ*, 566 N.W.2d at 71. However, the summary judgment standards mandate that a court view the facts in the light most favorable to the nonmoving party. *Buskey v. Am. Legion Post #270*, 910 N.W.2d 9, 11 (Minn. 2018).

B. Statutory Burdens

Orders of the Commissioner are entitled to a statutory presumption of validity, Minn. Stat. § 271.06, subd. 6 (2024), and are dispositive in the absence of substantial evidence rebutting them. *Conga Corp. v. Comm'r of Revenue*, 868 N.W.2d 41, 53 (Minn. 2015) (citing Minn. Stat. §§ 271.06, subd. 6 & 270C.33, subd. 6 (2024); *Buettner v. City of St. Cloud*, 277 N.W.2d 199, 204 (Minn. 1979)). "[T]he taxpayer has the burden of demonstrating the invalidity or incorrectness of an assessment." *Humana MarketPoint, Inc. v. Comm'r of Revenue*, 25 N.W.3d 841, 856 (Minn. 2025) (affirming grant of summary judgment to Commissioner where taxpayer did not sustain statutory burden due to parties' fact stipulation) (quoting *Cities Mgmt., Inc. v. Comm'r of Revenue*, 997 N.W.2d 348, 353 (Minn. 2023)). "If a taxpayer provides 'substantial evidence' that the Commissioner's assessment is incorrect, the presumption is overcome and the case is decided as if the presumption never existed, although the taxpayer retains the burden of proof throughout the proceeding." *Harmon v. Comm'r of Revenue*, 894 N.W.2d 155, 159 (Minn. 2017).

III. ANALYSIS

The Commissioner moves for summary judgment on the grounds that the record evidence supports the Commissioner's Orders, and the Appellants' have provided no further records to rebut the presumptive validity of the Orders, therefore there are no material facts in dispute and the Commissioner's Orders should be affirmed as a matter of law. Appellants oppose the Commissioner's motion, arguing the Commissioner's facts are incorrect. Based on the following, we conclude the Appellants have not raised a genuine issue of material fact, and the Commissioner is entitled to judgment as a matter of law. Accordingly, the Commissioner's motion for summary judgment is granted.

A. The Commissioner's audit is reasonable and supports his motion for summary judgment

The Commissioner has the authority to audit a taxpayer to determine the accuracy of a return, Minn. Stat. § 270C.31 subd. 1, and "may use any and all information in the commissioner's possession, or to which the commissioner has access, to insure equal and consistent application and enforcement of all state revenue laws." Minn. Stat. § 270C.04. In verifying a taxpayer's income, "[t]he commissioner may audit and adjust the taxpayer's computation of federal adjusted gross income, federal taxable income, items of federal tax preferences, or federal credit amounts to make them conform with the provisions of chapter 290… ." Minn. Stat. § 289A.35(a) (2024). The Internal Revenue Code ("I.R.C.") requires taxpayers to maintain records that substantiate their income and deductions. I.R.C. § 6001 (requiring taxpayers to "keep such records … sufficient to show whether or not such person is liable for tax … ."); *see also* Treas. Reg. § 1.6001-1(a),(e) (requiring taxpayers to "keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information," as long as they may be material in the administration of the tax law); *Law v. Comm'r of Revenue*, No. 08754-R, 2015 WL 5772978, at *2 (Minn. T.C. Sept. 25, 2015). Likewise, state tax law requires that a taxpayer must keep books and records and make them available for inspection when under audit. Minn. Stat. §§ 270C.31 subd. 2; 297A.77, subd. 5 (2024); Minn. R. 8130.7501, subp. 3(A).

When the records kept by the taxpayer are inaccurate or incomplete, a taxing authority may look to other information when determining taxable income and reconstruct a taxpayer's income by "any reasonable method." *Day v. Comm'r*, 975 F.2d 534, 537-38 (8th Cir. 1992) (citing cases from other circuits). We find that the Commissioner's adjustments of H&G's gross receipts and business deductions during the years at issue were reasonable. The Commissioner determined the Sale Documents corroborated the sales, and when compared against the bank statements demonstrated that proceeds from some of H&G's sales were not deposited into its bank accounts.[48] Additionally, the Commissioner determined that H&G was entitled to a larger deduction for business expenses based on its bank statements.[49]

The Commissioner cites the audit report underlying the assessment as record evidence demonstrating his determination of H&G's gross income and business expense deduction was lawful, reasonable, and the tax liability imposed by the assessment order was based on the information Appellants provided. *See Day v. Comm'r*, 975 F.2d at 537-38. The audit report, bank records, and associated purchase records therefore furnish the court with "independent support" for the tax liability imposed by the assessment. *See Blandin Paper Co. v. Cnty. of Aitkin*, No. 01-CV-11-375 et al., 2015 WL 5098479, at *3 n.6 (Minn. T.C. Aug. 28, 2015) (noting that the

[48] Doty Decl. ¶¶ 8, 13.
[49] Doty Decl. ¶¶ 11, 16.

evidentiary basis for an assessment constitutes "independent support" for the assessment). The evidence submitted with the Commissioner's motion is sufficient to entitle the Commissioner to summary judgment as a matter of law.

B. Appellants have not raised a genuine issue of material fact

The Appellants dispute the facts and validity of the Orders of the Commissioner, however, they did not present any evidence to the court in response to the Commissioner's motion. *DLH, Inc. v. Russ*, 566 N.W.2d at 69 ("the nonmoving party must present specific facts showing that there is a genuine issue for trial."). At the hearing on the motion, Appellants agreed that the "sold" number matched the Commissioner's view of gross sales upon audit of the Sales Documents ($1,349,004.62 for 2021 and $3,049,125.08 for 2022), but disagreed with the Commissioner's vehicle "purchases" upon audit (Appellants argued their vehicle "purchase" values were $1,370,319 for 2021 and $3,082,829 for 2022, and the Commissioner determined the values were $617,482 for 2021 and $1,887,930 for 2022).[50] The record in this matter demonstrates Appellants dispute the Commissioner's determinations with only generic assertions that their "documents prove[] [they] made no money," and that they "don't owe [] anything."[51]

We find Appellants' assertions—that the vehicle purchase values and Orders are incorrect—to be "mere averments," and, without additional evidence, are not specific enough to establish a genuine issue for trial. *Russ*, 566 N.W.2d at 69, 71("a party resisting summary judgment must do more than rest on mere averments.") None of the Appellants' asserted vehicle purchase values are supported by evidence in the record. *See Rodgers v. City of Des Moines*, 435 F.3d at 908. Appellants had ample opportunity to respond to the Commissioner's discovery requests, or

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[50] Doty Decl. ¶ ¶ 8, 9, Ex. A, at 5, 7; ¶¶ 13,14, Ex. B, at 4, 6.

[51] Tien Decl. ¶ 6, Ex. C (emails from Grant Sommerhauser to Wendy Tien dated Nov. 17-21, 2025).

to provide supporting evidence in opposition to this motion, and have failed to do so. While this court must view the facts in light most favorable to the non-moving party, *Buskey v. Am. Legion Post #270*, 910 N.W.2d at 11, the Appellants have not presented *any* facts that this court could evaluate in Apellants' favor.

Because there are no disputes of material fact and the entirety of the record evidence supports the Orders, the court grants summary judgment for the Commissioner.

B.J.L.Q.