

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of Protest of	)	
	)	DOCKET NO. 14540
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On November 9, 1999, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 1994 through 1997 in the total amount of \$34,415.

On January 10, 2000, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather chose to submit returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayers filed extension of time for filing forms for each year, 1994 through 1997. With each extension the taxpayers made a payment towards the estimated tax due for the year. However, while the Tax Discovery Bureau (Bureau) was reviewing the Tax Commission's records, it found the taxpayers failed to follow through with the filing of their income tax returns.

The Bureau sent the taxpayers a letter reminding them of their filing requirement but received no response. The Bureau gathered additional information on the taxpayers; prepared returns for them; and sent them a Notice of Deficiency Determination. The taxpayers protested the Bureau's determination stating that the actual tax liability would be substantially different than what was shown in the Notice of Deficiency Determination. The taxpayers stated they should have returns to the Tax Commission in 30 days.

The Bureau held the case for a while until it was apparent the taxpayers' returns would not be sent any time soon. The case was then referred for administrative review.

The Tax Commission sent the taxpayers a letter setting forth the methods available for redetermining a Notice of Deficiency Determination. The taxpayers asked for additional time to get their returns prepared. After several months of contacting the taxpayers and extending the time for submitting their returns, the taxpayers did submit returns for 1994 and 1995. However, for 1996 and 1997, the taxpayers stated they were still putting information together.

After about 30 days and no apparent progress on the 1996 and 1997 returns, the Tax Commission sent the taxpayers a letter giving them a final date for submitting any additional information. The taxpayers responded by submitting their 1996 and 1997 returns.

The Tax Commission reviewed the taxpayers' returns and found they were a better representation of the taxpayers' taxable income than the returns prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayers' returns, subject to the normal review process of the Tax Commission, in lieu of the returns prepared by the Bureau.

All the taxpayers' returns resulted in refunds to the taxpayers. However, Idaho Code sections 63-3072(c) and 63-3035(e) set the statute of limitations for crediting or issuing refunds on income tax returns. Section 63-3072(c) states,

Except as provided in subsection (e) of section 63-3035, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.

Section 63-3035(e), dealing with withholdings made on Idaho wages, states in pertinent part,

No credit or refund shall be made to an employee who fails to file his return, as required under this act, within three (3) years from the due date of the return, without regard to extensions, in respect of which the tax withheld might have been credited.

The taxpayers submitted their 1997 return in October 2001. The 1997 return's statute of limitations expired April 15, 2001; therefore, the 1994 through 1997 statute of limitations had expired. Since the taxpayers did not submit their returns within the three-year statute for issuing refunds, no refunds are allowed to the taxpayers.

WHEREFORE, the Notice of Deficiency Determination dated November 9, 1999, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers' refund claims for the taxable years 1994 through 1997 are DENIED.

An explanation of the taxpayers' right to appeal this decision is included with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2001, 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:

[REDACTED]                      Receipt No. [Redacted]  
[REDACTED]

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ADMINISTRATIVE ASSISTANT 1