

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14677
)	
[REDACTED],)	DECISION
)	
Petitioner.)	
_____)	

On February 8, 2000, the Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income taxes, penalties, and interest for tax years 1994 through 1997 in the total amount of \$6,277.

The taxpayer filed a timely protest. He did not request a hearing but rather chose to provide his actual returns for the years in question. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

The Tax Commission obtained information showing the taxpayer was an Idaho resident who filed an Idaho income tax return each year until 1994 when he quit filing both his state and federal returns.

The Bureau prepared provisional income tax returns on the taxpayer's behalf and sent him a Notice of Deficiency Determination that his representative appealed. The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

On November 8, 2000, the taxpayer's representative submitted actual returns for all of the years in question. The Tax Commission reviewed the actual returns [Redacted].

The taxpayer's Idaho returns for 1994 through 1997 will be accepted as filed subject to examination during the period allowable under Idaho Code § 63-3068(a).

The 1995 and 1996 returns indicated refunds due to the taxpayer. However, Idaho Code §§

63-3035(e) and 63-3072(c) provide for a limit on the time allowed in which to receive a refund:

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. (Emphasis added.)

Idaho Code §63-3035(e) explains the time limitation regarding employee withholding:

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his taxable income as computed under the provisions of this act, as the same has been or may hereafter be amended, or where his income is not taxable under this act, the state tax commission shall, after examining the annual return filed by the employee in accordance with this act, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted. 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. In the event that the excess tax deducted is less than one dollar (\$1.00), no refund shall be made unless specifically requested by the taxpayer at the time such return is filed. (Emphasis added.)

The period of limitation with respect to claiming a refund or credit of taxes shown in the Idaho income tax return for 1995 expired on April 15, 1999 and the 1996 return expired on April 15, 2000. The taxpayer did not file either return until November 8, 2000. Therefore, the taxes shown in those two (2) returns are offset by the withholding, but no refund on credit is allowed.

WHEREFORE, the Notice of Deficiency Determination dated February 8, 2000, is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following taxes, penalties, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1994	\$ 781	\$195	\$358	\$1,334
1995	-0-	-0-	-0-	-0-
1996	-0-	-0-	-0-	-0-
1997	2,017	504	405	<u>2,926</u>
			TOTAL	\$4,260

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2001, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted][REDACTED]

[REDACTED]