

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14923
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On May 25, 2000, the Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for tax years 1994 through 1998 in the total amount of \$37,133.

The taxpayer protested the determination and, after several delays, his file was transferred to the Legal/Tax Policy Division for administrative review. On March 6, 2001, the taxpayer submitted his completed Idaho individual income tax returns for the years 1994 through 1999 to the Tax Commission for filing. The Tax Commission, having reviewed the file and the completed returns, hereby issues its decision based thereon.

Idaho Code § 63-3035(e) and (f) defines the time allowed to claim credit or refund of 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 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.

(f) **This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this act, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.**
(Emphasis added.)

Idaho Code § 63-3072(c) defines the time allowed to claim a credit or refund of overpaid taxes:

(c) 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.)

Because the 1994, 1995, and 1996 returns were submitted after the time for claiming a credit or refund had expired, the monies the taxpayer asked to have applied to the next year's tax liability cannot be carried forward. However, the withholding is allowed to offset the tax due for each separate year. Tax year 1993, which was filed in 1995, resulted in a refund to the taxpayer. Because the taxpayer had indicated his desire that the refund be held pending the filing of his 1994 return, the 1993 credit will be allowed to apply. However, because the 1994 return was not filed until the statute limiting the time had expired, the balance of the credit is not carried forward. There was insufficient withholding to offset the tax due for 1995. The refund reflected in the 1996 return is reduced to \$-0-.

Pursuant to the taxpayer's request for the credit from 1999 to be applied to his estimated tax

for 2000, credit in the amount of \$2,934 will be held pending the filing of the taxpayer's 2000 return.

WHEREFORE, the Notice of Deficiency Determination dated May 25, 2000, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer receives the following income tax refund to be carried forward to the 1999 taxable year as follows:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1994	\$ 0	\$ 0	\$ 0	\$ 0
1995	237	59	92	388
1996	0	0	0	0
1997	(1,206)			(1,206)
1998	(733)			<u>(733)</u>
CREDIT CARRIED FORWARD TO 1999				<u>\$(1,551)</u>

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

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

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][REDACTED]

ADMINISTRATIVE ASSISTANT 1