

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15153
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On October 17, 2000, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayer) for refund of individual income taxes in the amount of \$193.53 for the period ending December 31, 1994.

The taxpayer filed a timely protest and petition for redetermination of the refund denial. He requested a telephone conference, which was held on January 2, 2001. The Tax Commission has reviewed the file, is advised of its contents and hereby issues its decision.

In response to a request by the Tax Commission's Tax Discovery Bureau, the taxpayer submitted his 1994 Idaho resident individual income tax return on July 10, 2000. The Tax Discovery Bureau accepted the return as filed and forwarded that return to the processing department.

Because the time for claiming a refund of overpaid taxes had expired before the 1994 return was received, a letter was mailed to the taxpayer that advised him of the Tax Commission's intent to deny the refund shown in the return. The taxpayer objected and a notice of deficiency determination to deny the refund shown in the return was issued.

Idaho Code § 63-3032 defines the due date of Idaho income tax returns:

Time for filing income tax returns. (a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

As a resident of Idaho, the taxpayer was required to file an Idaho individual income tax return for 1994. Because the return was made on the basis of the calendar year, it was required to be filed on or before April 15th following the close of the calendar year. The code is clear and unequivocal.

In his letter of protest, the taxpayer said he had filed his 1994 return within the time allowed by the extension he had filed. He said the return he had submitted on July 10, 2000 was a copy of the return he sent to the Tax Commission in 1995.

Upon receipt of the taxpayer's protest, the Revenue Operations Bureau transferred the taxpayer's file to the Legal/Tax Policy Division for administrative review. Pursuant to the taxpayer's request, a telephone conference was held on January 2, 2001, at which time the taxpayer presented his argument. He said he was sure he mailed his return in 1995 when the extension of the time to file the return had expired. He argued that he had no way of knowing that the Tax Commission did not receive the return until he was contacted by the Tax Discovery Bureau, which was after the time to claim the refund had expired. He admitted that he forgot all about the refund (because of the chaos in his life at the time) and did not realize the refund was not issued in 1995.

Idaho Code § 63-3072(c) provides for a limit on the time allowed to claim 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 1994 expired on April 15, 1998. The Tax Commission did not receive the taxpayer's return until July 10, 2000.

The Tax Commission finds Idaho Code § 63-3072(c) and § 63-3035(e), cited above, are controlling with respect to the taxpayer's refund claim for tax year 1994. The withholding will be allowed to offset the tax due for 1994. However, no credit or refund will be given.

WHEREFORE, Notice of Deficiency Determination denying the refund dated October 17, 2000, directed to [Redacted], is APPROVED, AFFIRMED, AND MADE FINAL.

An explanation of the 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]

ADMINISTRATIVE ASSISTANT 1