

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15207
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On November 15, 2000, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayer) for refund of individual income tax in the amounts of \$14 for the period ending December 31, 1994; \$43 for the period ending December 31, 1995; and \$258 for the period ending December 31, 1996.

The taxpayer filed a timely protest and petition for redetermination of the refund denials. The Tax Commission has reviewed the file, is advised of its contents and hereby issues its decision.

On August 29, 2000, the taxpayer submitted his 1994, 1995, and 1996 Idaho individual income tax returns to the Tax Commission for processing. Because the time for claiming the refunds that were shown in the returns had expired before the returns were filed, a letter was mailed to the taxpayer that advised him of the Tax Commission's intent to deny the refunds. The taxpayer objected and a notice of deficiency determination was issued wherein the taxpayer was advised the refunds were denied and he had a right to appeal the determination.

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 each of the years in question. The returns were made on the basis of the calendar year;

therefore, they were 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 asked for, “a waiver on the state code which does not allow refunds from the years stated above because of late filing.” He went on to say that prior to 1994 he had always filed on time. He said he did not realize he could be forfeiting his refunds by not filing. The taxpayer explained that he moved to [Redacted] from [Redacted] when he was twenty-six after his parents were killed. He said he needed the money to help defray the costs of attaining his United States citizenship.

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; 1995 expired on April 16, 1999; and 1996 expired on April 15, 2000. The Tax Commission did not receive the taxpayer's three returns until August 29, 2000.

The Tax Commission finds Idaho Code § 63-3072(c) and § 63-3035(e), cited above, are controlling. The clear statutory language prohibits credit or refund of taxes if the claim is not made within a certain timeframe. The taxpayer's withholding will be allowed to offset the tax due each year; however, no credit or refund will be issued.

WHEREFORE, Notice of Deficiency Determination denying the refund dated November 15, 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