

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 15221
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On November 22, 2000, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayer) for refund of Idaho individual income taxes of \$45 for the period ending December 31, 1995.

The taxpayer filed a timely protest and petition for redetermination of the refund denial. She did not request a hearing. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

When the Tax Commission's records showed no evidence the taxpayer's 1995 Idaho income tax return had been filed, the Tax Discovery Bureau contacted the taxpayer. The taxpayer responded by providing a copy of her return, which reflected a refund due to the taxpayer. The return was submitted for processing and a computer-generated letter was mailed to the taxpayer. The letter advised the taxpayer that her refund was denied because the time to claim the refund had expired. The taxpayer objected to the denial of her refund. A deficiency notice was mailed to the taxpayer to allow her an opportunity to appeal the Tax Commission's decision to withhold the refund. The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code 63-3072(c) provides for a limit on the time to claim a refund of overpaid income taxes:

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**. . . . (Emphasis added.)

The period of limitation with respect to claiming a refund or credit of taxes shown in the taxpayer's Idaho income tax return for 1995 expired on April 15, 1999. The taxpayer did not file a claim for refund until September 26, 2000.

It is unfortunate the taxpayer did not realize her 1995 Idaho return had not been filed and the refund shown therein claimed until the Tax Discovery Bureau contacted her. However, the Idaho Code § 63-3072 is clear and unequivocal. The language "shall be made. . ." is mandatory, not discretionary.

The Tax Commission finds Idaho Code § 63-3072(c), cited above, is controlling with respect to the taxpayer's refund claim for tax year 1995. No credit or refund can be given.

WHEREFORE, Notice of Deficiency Determination denying the refund dated November 22, 2000, directed to [Redacted], is APPROVED, AFFIRMED, AND MADE FINAL.

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]

\_\_\_\_\_ ADMINISTRATIVE ASSISTANT 1