

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of Protest of)
) DOCKET NO. 15585
[Redacted],)
) DECISION
)
Petitioners.)
_____)

On December 15, 2000, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable year 1993 in the total amount of \$1,309.

On February 15, 2001, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather chose to submit a 1993 return for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayers filed an extension of time to file their 1993 Idaho income tax return. However, while the Tax Discovery Bureau (Bureau) was reviewing the Tax Commission's records, it found the taxpayers failed to follow through with filing their income tax return. The Bureau researched the taxpayers further and found the taxpayers received wages in excess of Idaho's filing requirements for 1993.

The Bureau sent the taxpayers a letter reminding them of their filing requirement but received no response. The Bureau [Redacted] prepared a return for the taxpayers; and sent them a Notice of Deficiency Determination. The taxpayers protested the Bureau's determination stating that they were waiting for information from the IRS and that they did not expect to owe any tax for 1993.

The Bureau kept working the taxpayers' case for a few months awaiting the taxpayers' 1993 return. The Bureau sent the taxpayers a couple of letters to which the taxpayers did not respond. The Bureau then referred the matter for administrative review.

The Tax Commission sent the taxpayers a letter setting forth the methods available for redetermining a Notice of Deficiency Determination. The taxpayers chose to submit additional information for the Tax Commission to consider. The taxpayers stated they would have a completed 1993 return to the Tax Commission by July 16, 2001.

July 16 passed and the Tax Commission did not receive a return or any other correspondence from the taxpayers. The Tax Commission sent the taxpayers a follow-up letter giving the taxpayers a final date for submitting any additional information. The taxpayers responded on that date with a request for one more extension of 30 days. The taxpayers were apparently having difficulty getting all the information they needed.

The taxpayers did not meet their 30-day extension; however, ten days later the Tax Commission received a 1993 return from the taxpayers. The Tax Commission reviewed the taxpayers' return and found it was a better representation of the taxpayers' taxable income than the return prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayers' return, subject to the normal review process of the Tax Commission, in lieu of the return prepared by the Bureau.

The taxpayers' 1993 return resulted in a refund to the taxpayers. However, Idaho Code sections 63-3072(c) and 63-3035(e) set the statute of limitations for crediting or issuing refunds on income tax returns. Section 63-3072(c) states,

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.

Section 63-3035(e), dealing with withholdings made on Idaho wages, states in pertinent part,

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.

The taxpayers did not submit their return until October 2001. The taxpayers' 1993 return had a due date of April 15, 1994. The submission of the taxpayers' return was well beyond the three-year statute for issuing refunds. Therefore, no refund is allowed to the taxpayers.

WHEREFORE, the Notice of Deficiency Determination dated December 15, 2000, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers' refund claim for the taxable year 1993 is DENIED.

An explanation of the taxpayers' 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]
[Redacted]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1