

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

In the Matter of the Protest of	)	
	)	DOCKET NOS. 15848 & 15849
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On August 30, 2001, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayers) for refund of individual income tax in the amount of \$364 for the period ending December 31, 1996, and \$326 for the period ending December 31, 1997. The taxpayers 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 May 4, 2001, the taxpayers submitted their 1996 Idaho individual income tax return to the Tax Commission for processing and, on May 11, 2001, the 1997 Idaho return was submitted for processing. Because the time for claiming the refunds that were shown in the returns had expired before the returns were filed, letters were mailed to the taxpayers advising them of the Tax Commission's intent to deny the refunds. The taxpayers objected and a Notice of Deficiency Determination was issued wherein the taxpayers were advised the refunds were denied and they 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 residents of Idaho, the taxpayers were 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 15 following the close of the calendar year. The code is clear and unequivocal.

In their letter of protest, the taxpayers made reference to the letter they had attached to the two returns when the returns were submitted for filing. In addition, the taxpayers asked for the refunds shown in the returns to be forwarded to the Idaho Department of Labor to be applied toward the repayment of unemployment benefits they received in error during 1995.

Idaho Code § 63-3072(c) provides for a limit on the time allowed to claim a refund:

(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.)

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 Idaho taxable income, 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 1996 expired on April 15, 2000, and for 1997 expired on April 15, 2001. The Tax Commission did not receive the taxpayers' returns until May 2001.

The letter attached to the taxpayers' 1996 and 1997 Idaho returns was addressed to the Internal Revenue Service and was written by [Redacted]. She explained that she was incarcerated from 1997 until the end of 2000. She said her tax information, including tax documents and W-2s, were confiscated by [Redacted] County. She expressed her and [Redacted] hope that her circumstances would be taken into consideration because her hands were tied. She was silent regarding [Redacted] availability and responsibility toward the filing of the returns.

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 or transferred to the Department of Labor for [Redacted] unemployment liability.

WHEREFORE, the Notices of Deficiency Determination dated August 30, 2001, directed to [Redacted], denying the refunds for 1996 and 1997 are APPROVED, AFFIRMED, and MADE FINAL.

An explanation of taxpayers' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2001.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

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]

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ADMINISTRATIVE ASSISTANT