

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16726
[REDACTED])	
)	DECISION
Petitioner.)	
_____)	

On August 2, 2002, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayer) for refund of individual income tax in the amount of \$357 for the period ending December 31, 1997. The taxpayer filed a timely protest and petition for redetermination of the refund denial. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

On April 15, 2002, the taxpayer submitted her 1997 Idaho individual income tax return to the Tax Commission for processing. Because the time for claiming the refund shown in the return had expired, a letter was mailed to the taxpayer advising her of the Tax Commission's intent to deny the refund. The taxpayers objected and a Notice of Deficiency Determination was issued wherein the taxpayer was advised the refund was denied, and she had a right to appeal the determination.

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

63-3032. Time for filing income tax returns. (1) Except as provided in section 63-3033, Idaho Code:

(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 fifteenth 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 the year in question. The return was made on the basis of the calendar year; therefore, it was required to be filed on or before April 15th following the close of the 1997 calendar year.

In her letter of protest, the taxpayer said: “Some time ago, in Boise, an employee of the IRS told me that I could receive a tax refund for up to ten years after the date for filing. Only recently I learned from a CPA that this in [sic] not correct.” The taxpayer asked the Tax Commission to consider some additional circumstances as well as the fact that she was given erroneous information.

She explained that she began struggling with ill health in 1997 resulting in cancer surgery in early 1998. Her health declined from that point, and she was forced to retire from teaching and relocate to be closer to her daughter in another state. She said that she was more concerned about her health than claiming a refund of income taxes for 1997 because of the information she was given that she had 10 years to claim the refund. The taxpayer asked the Tax Commission to “waive the filing deadline and allow me to receive the refund due on my 1997 taxes.”

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

63-3072. Credits and refunds. . . .

(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 § 63-3024A(g) explains the time limitation for applying for a refund:

63-3024A. Credits and refunds. . . .

- (g) An application for any refund which is due and payable under the provisions of this section **must be filed** with the state tax commission within three (3) years of:
- (i) the due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return, or
 - (ii) the 15th day of April of the year following the year to which the application relates if the applicant is not required to file a return. (Emphasis added.)

The period of limitation with respect to claiming a refund or credit of taxes shown in the Idaho income tax return for 1997 expired on April 15, 2001. The Tax Commission did not receive the taxpayer's return until April 15, 2002.

At the time the taxpayer's 1997 Idaho income tax return was due, the taxpayer was aware of her requirement to file the return. However, because she thought she was going to receive a refund rather than owe additional tax, she felt no urgency to comply with the requirement based on information she had been given some time earlier. Additionally, her health concerns at the time necessitated putting off the filing of the return for a period of time.

However, the taxpayer did have a leeway of three additional years from the due date to file the return and still receive the refund shown therein. She did not file her return until a full four years from the time required by Idaho Code § 63-3032.

The Tax Commission finds Idaho Code § 63-3072(c) and § 63-3024A(g), cited above, are controlling. The clear statutory language prohibits credit or refund of taxes if the claim is not made within a certain timeframe. No credit or refund will be issued.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated August 2, 2002, that denies the taxpayer a refund is APPROVED, AFFIRMED, and MADE FINAL.

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

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this ____ day of _____, 2002, 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]
