

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16980
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On November 4, 2002, 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 \$16 for the period ending December 31, 1995 and \$16 for the period ending December 31, 1997. The taxpayers 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 March 25, 2002, the taxpayers submitted their 1995 and 1997 Idaho individual income tax returns to the Tax Commission for processing. These returns were submitted along with other prior year returns in response to the Tax Commission's Tax Discovery Bureau's inquiry into the taxpayers' residency and filing requirements.

Because the time for claiming refunds shown in the two returns had expired, a letter was 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:

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 15th day of the fourth month following the close of the fiscal year.

As residents of Idaho with taxable income, the taxpayers were required to file Idaho individual income tax returns. 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.

In his letter of protest, [Redacted] said he did not realize he was required to file an Idaho income tax return until he was contacted by a Tax Commission employee. At that time, he complied with the law by submitting all of the delinquent returns. He asked for “forgiveness” and the refund shown in each of the returns.

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.

The period of limitation with respect to claiming a refund or credit of taxes shown in the Idaho income tax return for 1995 expired on April 15, 1999 and on April 15, 2001 for 1997. The Tax Commission did not receive the taxpayers’ returns until March 25, 2002, well beyond the time allowed.

The Tax Commission finds Idaho Code § 63-3072(c), cited above, is 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 November 4, 2002, that denies the taxpayers a refund is APPROVED, AFFIRMED, and MADE FINAL.

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

DATED this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this ____ day of _____, 2003, 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]

[Redacted]