

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17077
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On January 9, 2003, 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 \$201 for the period ending December 31, 1998. 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.

The Tax Discovery Bureau of the Idaho State Tax Commission (Bureau) sent the taxpayers a letter of inquiry and a questionnaire to complete when it appeared the taxpayers had an Idaho filing requirement and no return could be identified in available records. [Redacted] responded to that letter by telephoning the author and discussing the taxpayers' filing requirement. He said he was sure he had filed and verified that claim by sending a copy of his federal return via fax.

The Bureau telephoned [Redacted] and explained the federal return was not the missing return, which prompted [Redacted] to fax a copy of the taxpayers' [Redacted] return. Upon receipt of that return, the Bureau telephoned the taxpayers and explained the taxpayers were required to file as part-year residents of Idaho for the year just as they had filed as part-year residents of [Redacted]. The Bureau, with the taxpayers' permission, prepared an Idaho return on the taxpayers' behalf and mailed it to them for signature. On August 29, 2002, the Tax Commission received that return back from the taxpayers and submitted it for processing.

Because the time had expired for claiming the \$201 refund shown in the return, a letter was mailed to the taxpayers advising them of the Tax Commission's intent to deny the refund. The taxpayers objected and a Notice of Deficiency Determination was issued wherein the taxpayers were advised the refund was denied and they had a right to appeal the determination.

In his letter of protest, [Redacted] explained that the taxpayers moved to Idaho from [Redacted] during 1998. He said they relied on a [Redacted] tax preparer's professional knowledge to prepare and file the required 1998 individual income tax returns. He said he was not aware of Idaho's filing requirement until he was contacted by the Bureau but corrected the representative's error by filing the missing Idaho return when requested to do so.

Idaho Code § 63-3072(c) provides for a limit on the time allowed to claim a refund or credit of tax, penalty, or interest:

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) defines the time allowed to apply for any refund or credit:

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 taxpayers hired a tax preparer as their agent to prepare tax returns on their behalf. The taxpayers could have a cause of action against the preparer; however, the responsibility for filing the returns as well as the information contained in the returns is with the taxpayers.

The period of limitation with respect to claiming a refund or credit of taxes shown in the taxpayers' 1998 Idaho income tax return expired on April 15, 2002. The Tax Commission did not receive the taxpayers' return until August 29, 2002.

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 January 9, 2003, 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]
