

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17131
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On January 30, 2003, 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 \$310 for the period ending December 31, 1998. 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 October 11, 2002, the taxpayer submitted a 1998 Idaho individual income tax return to the Tax Commission for processing. Because the time for claiming the \$310 refund shown in the return had expired, a letter was mailed to the taxpayer indicating the Tax Commission was denying the refund. The taxpayer objected and a Notice of Deficiency Determination was issued to provide the taxpayer with the opportunity for administrative review.

The taxpayer's letter explained the return was filed late because:

1. I did not have the mortgage interest statement necessary for claiming mortgage interest paid.
2. There was some confusion as to whether or not I could claim dependents, as I had recently divorced.
3. I was unaware of the three-year limit on filing for returns as the tax commission doesn't have that time limit for reviewing taxes.

The taxpayer's statement about the Tax Commission not having a time limit for reviewing taxes is in error. Idaho Code § 63-3068 states in pertinent part:

Period of limitations for issuing a notice of deficiency and collection of tax. (a) Except as otherwise provided in this section,

a notice of deficiency, as provided in section 63-3045, Idaho Code, for the tax imposed in this chapter **shall be issued within three (3) years** from either the due date of the return, without regard to extensions, or from the date the return was filed, whichever is later. (Emphasis added.)

The Tax Commission is allowed three years in which to notify a taxpayer of additional Idaho income tax unless an original return has not been filed. There is no time limitation if a return has not been filed.

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) defines the time allowed to apply for 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.)

Idaho Codes provides a taxpayer the same number of years to claim a refund or credit as allowed for the Tax Commission to claim a tax deficiency.

The Tax Commission did not receive the taxpayer's 1998 Idaho income tax return until October 11, 2002. The return was due on April 15, 1999. The period of limitation with respect to claiming a refund or credit of taxes shown in the return expired on April 15, 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 30, 2003, 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 _____, 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] _____