

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17525
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On August 8, 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 \$458 for the period ending December 31, 1999. 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 May 19, 2003, the taxpayers mailed their 1999 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 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 not allowed 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 their letter of protest, the taxpayers said they did not receive W-2s for 1999. They said they originally tried to get them from their employer but were unsuccessful. Subsequently, the business was sold and they forgot all about filing their 1999 income tax returns.

[Redacted]. The accountant did not receive those copies until January 2003. The taxpayers then explained a series of errors that caused their receipt of the return to be delayed. The taxpayers did not receive the completed return from their accountant until May even though the return was finalized in March.

With their protest letter, the taxpayers enclosed copies of tracking slips from United Parcel Service and other documents to show dates of when material was shipped. In addition, the taxpayers sent a copy of a letter to them from the Tax Commission indicating their 1998 Idaho return was also received by the Tax Commission after the time allowed for them to claim the refund shown in that return.

The 1998 return had been erroneously processed as a 1999 return and the refund shown therein had been issued. The letter from the Tax Commission advised the taxpayers of the error and instructed them to return the \$54 refund. In their letter appealing the determination for 1999, the taxpayers gave no explanation of why their 1998 Idaho return had not been filed in a timely manner.

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 § 63-3035(e) requires an employee to claim amounts withheld from wages within a certain timeframe:

(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 chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, 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 chapter, 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 taxpayers' Idaho income tax return for 1999 expired on April 15, 2003. The Tax Commission did not receive the taxpayers' return until May 22, 2003.

While the taxpayers presented information about delays they could not control, they did not present any facts that showed they were prevented from obtaining copies of their W-2s and filing their Idaho income tax returns long before they hired an accountant in September 2002.

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.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated August

8, 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 BY MAIL

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]
