

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17526
[REDACTED])	
Petitioners.)	DECISION
)	
)	

On August 11, 2003, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted](taxpayers) for refund of Idaho individual income tax of \$965 for the period ending December 31, 1999.

The taxpayers filed a timely protest and petition for redetermination of the refund denial. They did not request a hearing. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The taxpayers filed their 1999 Idaho part-year resident income tax return on June 24, 2003, which reflected a refund due to the taxpayers. A computer-generated letter was mailed to the taxpayers that advised the taxpayers that their refund was denied because the time to claim the refund had expired. The taxpayers objected to the denial of their refund. The taxpayers' letter stated:

We received your letter of July 29 and were unaware of the law that states we could not receive refunds for over payments of our taxes after 3 years. We would like you to reconsider this decision and ask for your consideration on the matter.

We were in the process of moving from another state at the time and thought our accountant had filed our taxes. This was an oversight on our part and we apologize for this error. The state has been able to collect interest on these moneys for 3 years and we are not asking for the interest the state has received during that time. We do not feel that the system is very fair when it comes to this law, there seems to be a double standard, we were informed by the state when we called

that this is the way it was and that is that. What does not make sense to us is if you will not refund our over paid taxes after 3 years then how can the state still collect for non payment of taxes after 3 years. This does not seem to be very fair?

We hope the state will reconsider this decision since we did not know about this law and since we were only 2 ½ months over the time allowed for filling a return.

A deficiency notice was mailed to the taxpayers to allow them an opportunity to appeal the Tax Commission's decision to deny the refund. The taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review.

The taxpayers' 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 Code 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 1999 Idaho income tax return until June 25, 2003. The return was due on April 15, 2000. The period of limitation with respect to claiming a refund or credit of taxes shown in the return expired on April 15, 2003.

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 11, 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]
[Redacted]

[Redacted]
