

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17898
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On October 15, 2003, the Idaho State Tax Commission (Tax Commission) received a 1999 amended return from [Redacted] (taxpayers). The staff of the Taxpayer Accounting Bureau (Bureau) of the Revenue Operations Division of the Tax Commission reviewed the amended return and determined the refund claimed should be denied. The Bureau sent a correction notice to the taxpayers denying their claimed refund.

On December 18, 2003, the taxpayers protested the Bureau's determination. The Bureau then issued a Notice of Deficiency Determination dated January 8, 2004, to the taxpayers and referred the matter for administrative review. The Tax Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. The taxpayers did not respond. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision based upon the information available.

[Redacted] The Bureau reviewed the taxpayers' amended return and determined the taxpayers did not timely file their amended return. The Bureau stated the statute of limitations had expired for amending the taxpayers' return. The taxpayers protested stating that, [Redacted]it was not possible for them to file an amended Idaho return within the three-year statute.

Idaho Code section 63-3072(b) states that a claim for credit or refund of tax paid shall be made within the later of three years of the due date of the return, without regard to extensions, or

three years from the date the return was filed. The Tax Commission received the taxpayers' 1999 Idaho income tax return on March 14, 2000. The due date for filing 1999 Idaho income tax returns was April 15, 2000. The taxpayers filed their 1999 amended return on October 15, 2003, well past the three-year statute for amending their return.

However, Idaho Code sections 63-3068(f) and 63-3072(d) provide that the statute of limitations for making changes to Idaho income tax returns, [Redacted] shall not expire until the later of one year [Redacted] three years from the due date of the return, without regard to extensions, or three years from the date the return was filed. These sections further state that only those specific items of income, deductions, gains, losses or credits which were adjusted [Redacted] shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments. [Redacted]

The taxpayers' amended return made changes [Redacted] to include business income, capital losses, self-employment tax deduction, and itemized deductions. However, for their amended Idaho taxable income, the taxpayers also claimed a deduction for retirement benefits in addition to the changes made to their federal taxable income. [Redacted] the change to amend for the retirement benefits deduction is past the statute of limitations for amending. Any credit or refund attributable to the retirement benefits deduction cannot be allowed.

The taxpayers argued that [Redacted]the waiver should apply to Idaho as well. However, Idaho Code sections 63-3068(m) and 63-3072(h) state that the period of time in which a notice of deficiency can be issued or a credit or refund of tax allowed can be extended only by written consent of both the taxpayer and Tax Commission. [Redacted] No written agreement was offered to or requested by the Tax Commission to extend Idaho's statute of limitations. A waiver

executed to extend the federal statute of limitations does not automatically extend the statute of limitations for Idaho.

[Redacted] the taxpayers did not qualify for the retirement benefits deduction they included as part of their amended return. Idaho Code section 63-3022A provides for a deduction of certain retirement benefits. The deduction is available for certain retirement benefits received by individuals who have either attained age 65 or are age 62 and classified as disabled. The information available shows that neither of the taxpayers attained age 65 in 1999. Furthermore, the taxpayers have provided nothing to show that Mr. [Redacted], the recipient of the retirement benefits, was classified as disabled. Therefore, the retirement benefits deduction was not available to the taxpayers for taxable year 1999.

WHEREFORE, the Notice of Deficiency Determination dated January 8, 2004, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers receive the following REFUND of tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$(617)	\$ 0	\$ 0	\$(617)

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

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[Redacted]

[REDACTED]

Receipt No.
