

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18198
[REDACTED])	
Petitioners.)	DECISION
)	
)	

On August 4, 2004, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayers) for refund of Idaho individual income tax in the amount of \$150 for the period ending December 31, 2000.

The taxpayers filed a timely protest and petition for redetermination of the refund denial. A telephone conference was held on October 5, 2004. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

On July 2, 2004, the Tax Commission received the taxpayers' 2000 Idaho Part-Year Resident and Nonresident Income Tax Return claiming a refund of \$150. 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 denied, and they had a right to appeal the determination. The taxpayers sent a letter of protest and their file was transferred to the Legal/Tax Policy Division for administrative review.

In their letter of protest, the taxpayers said:

When we originally spoke to [Redacted] and were not made aware of this requirement. She instructed us to hold our returns until we had all of them prior to submittal. Our delinquency in filing was attributed to the time required to receive the 2000 return copy from

the federal government for that year.

We are not asking for a refund. Instead, we would like for this credit to be used against our tax liability for the years 2002 and 2003. This is disappointing to us because we would have filed the 2002 and 2003 returns earlier with fewer penalties (in the case of 2003 with no penalty at all) had we not been instructed to wait for the 2000 federal tax return before filing subsequent returns.

Idaho Code § 63-3030 states in pertinent part:

63-3030. Persons required to make returns of income. (a)

Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

The time for filing Idaho income tax returns is defined in Idaho Code § 63-3032 as on or before the fifteenth day of April following the close of the calendar year for returns made on the basis of a calendar year and on or before the fifteenth day of the fourth month following the close of the fiscal year if made on the basis of a fiscal year. For the years 2000 through 2003, the taxpayers did not file their Idaho part-year resident and nonresident income tax returns in a timely manner as required by Idaho law.

Idaho Code § 63-3072(a)(b), and (c) state:

63-3072. Credits and refunds. (a) Subject to the provisions of subsections (c) and (g) of this section, where there has been an overpayment of the tax imposed by the provisions of this chapter, the amount of such overpayment shall be credited against any tax administered by the state tax commission which tax is then due from

the taxpayer, and any balance of such excess shall be refunded to the taxpayer.

(b) The state tax commission is authorized, and the state board of tax appeals is authorized to order the state tax commission in proper cases, to credit, remit, refund, or pay back all tax, penalties, and interest, erroneously or illegally assessed or collected, regardless of whether the same have been paid under protest, which claim for refund shall be certified to the state board of examiners by the state tax commission.

(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 law provides for a refund of any overpayment; however, the claim for refund must be made within a certain timeframe. The Tax Commission did not receive the taxpayers' claim for a refund until the taxpayers' return was received on July 2, 2004. Unfortunately, the time allowed for claiming the 2000 refund expired on April 15, 2004.

The taxpayers do not dispute that they did not comply with their requirement to file an Idaho tax return each year. Their concern was additional penalty because they waited for the 2000 federal information before they sent any of their returns to the Tax Commission. Tax Commission records show the taxpayers received a refund for tax year 2001, were assessed the maximum penalty of 25% for tax year 2002, and were not assessed penalty for 2003. They were not assessed any additional penalty because of the delay caused when the Tax Commission advised them to wait for completion of the 2000 return before they submitted any of the missing returns for processing.

Idaho Code § 63-3072 is clear and unequivocal. The language in this section “shall be made . . .” is not discretionary, but rather, it is mandatory. The Tax Commission finds Idaho Code § 63-3072(c), cited above, is controlling with respect to the taxpayers’ refund claim for tax year 2000. No credit or refund can be given.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated August 4, 2004, 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 _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2004, 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]

Receipt No.
