

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18262
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On August 31, 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 \$648 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 July 12, 2004, the Tax Commission received the taxpayers' 1999 Idaho Part-Year Resident & Nonresident Income Tax Return claiming a refund of \$648. The postmark on the envelope shows a date of July 8, 2004.

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.

In her letter of protest, [Redacted] said the taxpayers submitted their 1999 return on time because it was postmarked by the due date. She said: "The original return is somewhere in the Tax Commission offices, and a thorough search should uncover it."

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 get the taxpayer's claim for a refund until the taxpayer's return was received on July 12, 2004. Unfortunately, the time allowed for claiming the 1999 refund expired on April 15, 2003.

The taxpayers claim their return was filed in a timely manner. Unfortunately, they have provided no proof of mailing the return, and the Tax Commission has no record of receiving the return until July 12, 2004.

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 1999, and no credit or refund can be given.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated August 31, 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.
