

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

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

[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated February 2, 2005. The Notice of Deficiency Determination denied a requested refund of \$1,644 plus applicable interest for 2001.

The only issue that needs to be addressed in this docket is whether taxpayers may file an amended return to adjust or reverse audit adjustments for which the period for the filing of an appeal as provided in Idaho Code § 63-3049(1)(a) has expired. Idaho Code § 63-3049 states, in pertinent part:

Notice of redetermination or deficiency -- Interest. -- (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

* * *

(5) If the taxpayer does not file a protest with the state tax commission within the time prescribed in subsection (1)(a) of this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the state tax commission.

On June 9, 2004, an auditor for the Commission issued a notice of deficiency determination to the petitioners asserting additional Idaho income tax in the amount of \$1,644 plus applicable interest for 2001. The petitioners had 63 days as is provided in Idaho Code § 63-3045(a)(1) from the mailing of the notice of deficiency (dated June 9, 2004) in which to file a protest of the adjustment or adjustments made in the notice of deficiency determination. No such protest was filed within that period.

In December 2004, the petitioners filed with the Commission an amended Idaho income tax return requesting a reversal of the adjustments made in the June 9, 2004 notice of deficiency determination. The auditor then issued the notice of deficiency determination dated February 2, 2005, denying the adjustment requested by the amended return. The petitioners filed an appeal of the notice of deficiency determination dated February 2, 2005, on or about March 28, 2005. The only authority they cited related to the underlying issue or issues involved in the notice of deficiency determination dated June 9, 2004.

Idaho Income Tax Administrative Rule 880.04 states:

Closed Issues. The Tax Commission shall deny a credit or refund claim for a taxable year for which the Tax Commission has issued a Notice of Deficiency, unless the taxpayer shows that the changes on the amended return are unrelated to the adjustments in the Notice of Deficiency or that the changes result from a final federal determination.

It appears to the Commission that Rule 880.04 is directly on point. The issue or issues involved in the June 9, 2004, notice of deficiency determination are accordingly closed. Therefore, the Commission finds that the petitioners are not entitled to the refund sought.

WHEREFORE, the Notice of Deficiency Determination dated February 2, 2005 is hereby APPROVED, AFFIRMED, and MADE FINAL.

DATED this _____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in envelopes addressed to:

[REDACTED]

Receipt No.