

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 18978
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On August 25, 2005, the Revenue Operations Division (RevOp) of the Idaho State Tax Commission denied a request by [Redacted] (taxpayers) for credit or refund of Idaho individual income tax in the amount of \$712 for the period ending December 31, 1999.

The taxpayers filed a timely protest and petition for redetermination of the credit or refund denial. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The Tax Commission's Tax Discovery Bureau (Bureau) contacted the taxpayers because their 1999 Idaho individual income tax return had not been filed. Prompted by the Bureau's contact, the taxpayers delivered to the Tax Commission on December 1, 2003, their 1999 return showing a refund. The return was not processed at that time. It was processed on June 17, 2005, after the taxpayers' appeal of other issues was resolved.

RevOp reviewed the return and found the time for claiming a credit or refund had expired before the return was received by the Tax Commission. RevOp sent the taxpayers a letter informing them the credit or refund claim was being denied. The taxpayers objected and a certified notice was sent to them to allow them the opportunity for administrative review. Their file was transferred to the Legal/Tax Policy Division for review by the Commission.

Idaho Code provides for a limit on the time taxpayers have to claim a credit or refund as follows:

**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 credit or refund of any overpayment; however, the claim for the credit or 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 December 1, 2003. Unfortunately, the time allowed for claiming the 1999 refund expired on April 15, 2003.

The taxpayers requested that the credit shown in the 1999 return be applied to the tax owing for years 2001 and 2002. They explained that the credit is the result of a credit from their 1998 return. They stated, "But there should be no penalties associated with this as I always try to keep a positive balance with the state so that they wind up owing me money instead of we owing them."

The taxpayers' 1998 original return was processed by the Tax Commission on October 27, 2003, and an amended return was processed on May 26, 2005. The time to claim a credit or refund of 1998 tax, penalty, or interest expired on April 15, 2002.

Idaho Code § 63-3072 is clear and unequivocal. The language in these sections “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’ credit or refund claim for tax year 1999. No credit or refund can be given.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated August 25, 2005, that denies the taxpayers a credit or 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 \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2005, 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.  
  
\_\_\_\_\_