

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19124
[Redacted])	
Petitioner.)	DECISION
)	
)	

On November 4, 2005, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted](taxpayer) for a refund of Idaho individual income taxes in the total amount of \$2,239 for tax years 1999, 2000, and 2001.

The taxpayer filed a timely protest and petition for redetermination of the refund denial in a letter dated August 4, 2005. The taxpayer did not request a hearing. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The taxpayer filed his 1999, 2000, and 2001 Idaho individual income tax returns on June 23, 2005. The returns reflected refunds due to the taxpayer. A letter was mailed to the taxpayer advising him that his refunds were denied because the time to claim the refunds had expired. The taxpayer protested the denial of his refund claim.

A deficiency notice was mailed to the taxpayer to allow him an opportunity to appeal the Tax Commission's decision to deny the refunds. The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-3072(c) provides for a limit on the time allowed to claim a refund.

63-3072. Credits and refunds. . . .
(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 Code § 63-3024A defines the credit and the time allowed to apply for a refund:

63-3024A. Credits and refunds. -- (a) Any resident individual not entitled to the credit allowed in subsection (b)(1), who is required to file by law and who has filed an Idaho income tax return, shall be allowed a credit against taxes due under the Idaho income tax act equal to the amount of twenty dollars (\$20.00) for each personal exemption for which a deduction is permitted by section 151(b) and (c) of the Internal Revenue Code if such deduction is claimed on the taxpayer's Idaho income tax return, and if the individual for whom the deduction is claimed is a resident of the state of Idaho. If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. If the credit or refund is not claimed for the year for which the individual income tax return is filed, the right thereafter to claim such credit or refund shall be forfeited. The state tax commission shall prescribe the method by which the refund, if any, is to be made to the taxpayer . . .

(g) An application for any refund which is due and payable under the provisions of this section must be filed with the state tax commission within three (3) years of:

(i) the due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return, or

(ii) the 15th day of April of the year following the year to which the application relates if the applicant is not required to file a return. (Emphasis added.)

The taxpayer questioned the fairness of the Tax Commission denying his credit or refund requests after three years but collecting tax due for other years that were filed beyond three years from the due dates of the returns.

Idaho Code provides for a limit on the time the Tax Commission has to notify a taxpayer of a determination of tax due as follows:

63-3068. Period of limitations for issuing a notice of deficiency and collection of tax. (a) Except as otherwise provided in this section, **a notice of deficiency, as provided in section 63-3045, Idaho Code, for the tax imposed in this chapter shall be issued within three (3) years from either the due date of the**

return, without regard to extensions, or from the date the return was filed, whichever is later.

(b) If an assessment has been made as provided in this chapter, then such tax shall be collected either by levy, or by a proceeding brought in court, within a period of six (6) years from the date of assessment of the tax and provided, further, that this shall not be in derogation of any of the remedies elsewhere provided in this chapter.

(c) In the case of a fraudulent return or a false return with the intent to evade the tax imposed in this chapter, or a willful attempt in any manner to defeat or evade the tax imposed in this chapter, a notice of deficiency may be issued, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(d) **In the case of a failure to file a return, for any reason, a notice of deficiency may be issued, the tax imposed in this chapter may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.**
(Emphasis added.)

A three-year time restriction is placed on the Tax Commission for the notification of an underpayment of tax just as a three-year time restriction is placed on a taxpayer for claiming a credit or refund of any overpayment of tax. When a taxpayer does not file a return as required by law, no time restriction for determining and collecting tax due is placed on the Tax Commission.

The Tax Commission did not receive the taxpayer's 1999, 2000, and 2001 Idaho income tax returns until June 23, 2005, and the returns were due on April 15, 2000; April 15, 2001; and April 15, 2002, respectively. The period of limitation with respect to claiming a refund or credit of taxes shown in the returns expired on April 15, 2003; April 15, 2004; and April 15, 2005, respectively.

The Tax Commission finds Idaho Code section 63-3072(c) and section 63-3024A(g), cited above, are controlling. The clear statutory language prohibits credit or refund of taxes if the claim is not made within a certain timeframe. Therefore, no credit or refund will be issued to the taxpayer.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated November 4, 2005, that denies the taxpayer a refund is APPROVED, AFFIRMED, and MADE FINAL.

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

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2006, 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]

Receipt No.

[Redacted]
