

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 19260
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
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	)	

On January 5, 2006, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayers) for a refund of Idaho individual income tax in the amount of \$656 for the period ending December 31, 2001.

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.

The Tax Commission received the taxpayers' 2001 Idaho individual income tax return on September 19, 2005. Because the time for claiming the refund reflected in that return had expired, a letter was sent to the taxpayers informing them of the adjustment to deny the refund. The taxpayers objected to the intended action, and a certified notice was sent to allow them the opportunity for administrative review. Their file was transferred to the Legal/Tax Policy Division for the Commission's review.

In their letter of protest, the taxpayers said:

**Subject: Statute of limitations**

In response to your letter, stating that refunds could not be issued on returns filed after 3 years from the original due date, I believe that the statute of limitations is the same for state as it is for federal claims. Enclosed you will find a letter from the IRS stating that it is 3 years *plus any extensions*. As you know I filed a six month extension, and included an estimated payment. Please issue the refund. Thank you, (Emphasis in original)

Unfortunately, the taxpayers are mistaken in their belief that the state and federal tax codes addressing the time allowed to claim a refund or credit of tax are identical. 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 receive the taxpayers' claim for a refund until the taxpayers' return was received September 19, 2005. Unfortunately, the time allowed for claiming the 2001 refund expired on April 15, 2005.

Along with their letter of protest, the taxpayers sent a copy of a letter from the IRS dated April 16, 2004. The letter stated the taxpayers must file their federal return within three years from the due date of the return, plus extensions, in order to claim a credit or refund of payments made on or before the return date.

Unfortunately for the taxpayers, Idaho tax law and federal tax law are not the same. The taxpayers' properly filed extension extended the taxpayers' time for filing their 2001 federal and Idaho income tax returns until October 15, 2002. The extension also extended the time allowed for the taxpayers to claim refund of any over-payment for federal income taxes. However, the extension did not extend the time allowed for claiming credit or refund of Idaho income tax.

Idaho Code § 63-3072 is clear and unequivocal. The language in this section "shall be made. . ." and "without regard to extensions. . ." 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 2001. No credit or refund can be given.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated January 5, 2006, that denies the taxpayers 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

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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.

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