

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20554
	)	
[REDACTED],	)	DECISION
	)	
Petitioner.	)	
_____	)	

On September 21, 2007, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayer) for refund of Idaho individual income tax in the amount of \$182 for the period ending December 31, 2003. The taxpayer 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 16, 2007, the taxpayer sent his 2003 Idaho individual income tax return to the Tax Commission for processing. Because the time for claiming the refund claimed in the return had expired, the Tax Commission sent the taxpayer a letter advising him of the intent to deny his refund. The taxpayer objected, and a Notice of Deficiency Determination was issued wherein the taxpayer was advised the refund was denied and he had a right to appeal the determination.

The taxpayer appealed the denial of his refund and his file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter advising him of his right to schedule a hearing or submit additional information.

Idaho Code § 63-3032 defines the due date of Idaho income tax returns:

**63-3032. Time for filing income tax returns.** (1) Except as provided in section 63-3033, Idaho Code:

(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the fifteenth day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the

Idaho state tax commission on or before the fifteenth day of the fourth month following the close of the fiscal year.

As a resident of Idaho with taxable income, the taxpayer was required to file an Idaho individual income tax return. The return was made on the basis of the calendar year; therefore, it was required to be filed on or before April 15 following the close of the calendar year.

In his protest letter, the taxpayer stated: “I filed a 2001 and 2003 state tax return, at your request, together last month. I don’t know how I missed filing these at the proper time, other than to say that I went through a very painful divorce & lost a job that I’d held for 13 years in 2001.”

Tax Commission records show the taxpayer’s 2001 and 2003 Idaho returns were not filed with the Tax Commission until after the Tax Commission’s Tax Discovery Bureau contacted the taxpayer in 2007.

Idaho Code § 63-3072(a), (b), and (c) state:

**63-3072. Credits and refunds.** -- (a) Subject to the provisions of subsections (b), (c) and (h) 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) Except in regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, 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.

(c) **With regard to amounts withheld** as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, **a**

**claim for credit or refund shall be made within three (3) years from the due date of the return**, without regard to extensions, for the taxable year in respect to which the tax was withheld or paid. (Emphasis added.)

Idaho law provides for a refund of any overpayment, however, the claim for credit or refund must be made within a certain timeframe. The taxpayer made his claim for a refund when he filed his 2003 return on July 16, 2007. Unfortunately, the time allowed for claiming the 2003 refund expired on April 15, 2007.

The Tax Commission finds Idaho Code § 63-3072(c), cited above, is controlling. The clear statutory language prohibits credit or refund of taxes if the claim is not made within a certain timeframe. Credit or refund of the amount claimed in the taxpayer's 2003 Idaho return is denied.

WHEREFORE, the Notice of Deficiency Determination [Redacted], dated September 21, 2007, that denies the taxpayer a refund is APPROVED, AFFIRMED, and MADE FINAL.

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, 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]

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