

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20790
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On November 9, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for the taxable years 2001 through 2004 in the total amount of \$5,484.

On December 3, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather stated he was getting the proper documentation in order to file his income tax returns. The Tax Commission, having reviewed the file, hereby issues its decision.

As part of the Tax Commission’s discovery program, the Tax Discovery Bureau (Bureau) found W-2 Wage and Tax Statements that identified the taxpayer as having received wages for work done in Idaho in the years 2001 through 2004. The Bureau sent the taxpayer a letter asking him about his requirement to file Idaho individual income tax returns but did not receive a response from the taxpayer. The Bureau obtained additional information [Redacted] [Redacted] and determined the taxpayer was required to file Idaho income tax returns. The Bureau prepared income tax returns for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau’s determination. He stated he was getting the necessary documents to satisfy the Bureau’s request; he just needed more time to get it all together. The Bureau allowed the taxpayer the additional time he requested; however, when that

time passed, and the taxpayer failed to produce income tax returns or submit any additional information, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not respond so the Tax Commission sent a follow-up letter to the taxpayer. A representative of the taxpayer contacted the Tax Commission and stated that the taxpayer was in the process of getting Individual Tax Identification Numbers (ITINs) for members of his family that qualified as the taxpayer's dependents. The representative stated the taxpayer was working with [Redacted] to get the ITINs and when the numbers are received, the taxpayer would submit income tax returns to the Tax Commission. The representative stated she would fax copies of the information [Redacted] to show what the taxpayer was working towards.

The Tax Commission never received the information from the taxpayer's representative; however, several months later, the Tax Commission received the taxpayer's 2001 through 2004 Idaho income tax returns. The Tax Commission reviewed those returns and found them to be a better representation of the taxpayer's Idaho taxable income than the returns prepared by the Bureau. Therefore, the Tax Commission accepts the taxpayer's returns, subject to the normal review process of the Tax Commission, in lieu of the returns prepared by the Bureau.

All the returns submitted by the taxpayer resulted in refunds. Idaho Code section 63-3072 provides the statute of limitations for crediting or issuing refunds on Idaho income tax returns. Idaho Code section 63-3072 states a claim for credit or refund must be made within three years from the due date of the return required to be filed. The taxpayer's returns for 2001, 2002, and 2003 were all submitted well beyond the three-year statute for claiming a refund. Therefore, the Tax Commission cannot allow the refunds claimed.

As for the 2004 year, the taxpayer did provide a claim for refund within the three-year statute of limitations. However, the Tax Commission finds that the refund claimed needs to be corrected to account for the allowable grocery credit. Idaho Code section 63-3024A provides for a credit in the amount of \$20 for each personal exemption for which a deduction is permitted by section 151(b) and (c) of the Internal Revenue Code (IRC). In addition to the qualification of IRC section 151, the Idaho Code further restricts the credit to individuals that are residents of the state of Idaho. The taxpayer claimed five other personal exemptions on his 2004 return in addition to his personal exemption. In a conversation with the Bureau's staff, the taxpayer inquired about claiming his parents, living in [Redacted], as dependents. Two of the dependents claimed on the taxpayer's 2004 return are identified as "parent." Since the taxpayer's parents are not residents of Idaho, the \$20 credit is not available for their personal exemption. Therefore, the Tax Commission hereby adjusts the taxpayer's 2004 grocery credit to the allowable amount.

WHEREFORE, the Notice of Deficiency Determination dated November 9, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the Tax Commission refund the taxpayer the following tax:

<u>YEAR</u>	<u>TAX</u>	<u>TOTAL</u>
2001	\$ 0	\$ 0
2002	0	0
2003	0	0
2004	(268)	<u>(268)</u>
	TOTAL REFUND	<u>\$(268)</u>

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

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, 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.
