

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 18924A
[Redacted],	)	
	)	AMENDED DECISION
Petitioner.	)	
_____	)	

On January 7, 2009, the Idaho State Tax Commission issued a decision on Docket No. 18924 to [Redacted] (taxpayer) for the taxable years 2000 through 2003. The decision modified the Tax Commission’s Notice of Deficiency Determination dated May 19, 2005.

After the Tax Commission issued its decision, the taxpayer provided her 2001, 2002, and 2003 Idaho individual income tax returns. Since the taxpayer submitted these returns within the appeal period of the decision, the Tax Commission decided that the returns should be incorporated into the Tax Commission’s decision.

The Tax Commission reviewed the taxpayer’s 2001 through 2003 returns and found them to be a better representation of the taxpayer’s Idaho taxable income. However, the taxpayer’s 2002 return did not accurately reflect her Idaho tax. The taxpayer did not include the Permanent Building Fund tax or the grocery credit on her 2002 Idaho return. The Tax Commission could find no reason either of these were not included on the taxpayer’s return. Therefore, the Permanent Building Fund tax was added and the grocery credit was credited toward the taxpayer’s 2002 Idaho tax.

The taxpayer’s returns resulted in refunds to the taxpayer. However, Idaho Code section 63-3072 states that a claim for credit or refund must be made within three years of the due date of the return for a credit to be credited or a refund to be issued. The taxpayer’s claim for refund for the 2001 tax year was submitted well beyond the three-year period of limitations;

therefore, the Tax Commission cannot allow the refund claimed on the 2001 return. However, because the Tax Commission issued a Notice of Deficiency Determination within the three-year statute for the taxable years 2002 and 2003, the period of limitations is suspended until the final resolution of the deficiency determination. Therefore, since the period of limitations is still open, the taxpayer is entitled to the refunds claimed on her 2002 and 2003 income tax returns.

WHEREFORE, after correcting the taxpayer's 2002 return, the Tax Commission accepts the taxpayer's income tax returns, subject to the normal review process of the Tax Commission, in lieu of the 2001 through 2003 returns prepared by the Tax Discovery Bureau.

WHEREFORE, the decision for Docket No. 18924 dated January 7, 2009, is hereby AMENDED to include the provisions of this amended decision.

WHEREFORE, the provisions of this amended decision are APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED, and THIS DOES ORDER that the taxpayer receive the following refund:

<b>YEAR</b>	<b>REFUND</b>	<b>TAX</b>	<b>PENALTY</b>	<b>INTEREST</b>	<b>TOTAL</b>
2000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
2001	0	0	0	0	0
2002	(618)	0	0	0	(618)
2003	(659)	0	0	0	<u>(659)</u>
			<b>TOTAL</b>	<b>REFUND</b>	<b><u>(\$1,277)</u></b>

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, a copy of the within and foregoing AMENDED DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]  
[Redacted]

Receipt No.

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