

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 25466
Petitioners.)
DECISION
_____)

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated December 7, 2012, issued by the Revenue Operation Division of the Idaho State Tax Commission denying a request for refund in the total amount of \$929. Petitioners believe their refund should be allowed due to their circumstances and the unnecessary hardship it would cause. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioners filed a 2008 individual income tax return requesting a refund of their excess withholdings. The Tax Commission received Petitioners' 2008 return on June 4, 2012. During processing, Petitioners' return was identified as a return that had a potential error. The Taxpayer Accounting Section (Taxpayer Accounting) reviewed Petitioners' return and found that Petitioners' claim for refund was past the statute of limitations for issuing or crediting a refund. Taxpayer Accounting sent Petitioners a correction letter stating their refund was denied because their claim for refund was past the statute of limitations.

Petitioners protested Taxpayer Accounting's correction stating the denial of their refund would cause unnecessary hardship. Petitioners stated that [Redacted] has been unemployed for the better part of 2012 and unable to collect any additional unemployment compensation. Petitioners stated things are very tight and the business [Redacted] is running is barely covering its own bills. Petitioners stated they were unaware of the statute of limitations and that, in

essence, they were loaning the Tax Commission the amount of their refund. All Petitioners want is the principal on this loan; they are not asking for interest.

Taxpayer Accounting reviewed Petitioners' protest, sent Petitioners a Notice of Deficiency Determination, and referred the matter for administrative review.

The Tax Commission sent Petitioners a letter asking them to provide any additional information, or provide dates for a hearing if they wanted a hearing. Petitioners did not respond, so the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Idaho Code section 63-3072(c) states that a claim for credit or refund of amounts withheld must be made within three (3) years of the due date of the income tax return required to be filed, without regard to extensions, for the taxable year with respect to which the tax was withheld or paid. Petitioners' 2008 return had a due date of April 15, 2009. The Tax Commission received Petitioners' 2008 income tax return on June 4, 2012; after the three year statutory period for filing a claim.

Petitioners claimed the denial of their refund would create a hardship for them; however, Petitioners did not provide anything to establish a hardship that the Tax Commission could consider for a possible hardship settlement. The Tax Commission is empathetic to Petitioners' situation; nevertheless, the statute makes no exception in these regards to the requirement that a claim for refund of excess withholdings be made within three years of the due date of the return.

CONCLUSION

The Idaho statute is clear when it states a claim for refund or credit must be filed within three years from the due date of the return. Whether or not Petitioners knew of the statute requirements is not a valid defense, Powers v. Canyon County, 108 Idaho 967, 970, 703 P. 2d

1342, 1345 (1985), and the Idaho Code has no provision for circumstances such as Petitioners'. Therefore, the Tax Commission must uphold the denial of Petitioners' request for credit or refund.

THEREFORE, the Notice of Deficiency Determination dated December 7, 2012, and directed to [Redacted] is hereby AFFIRMED.

Since the Notice of Deficiency Determination denied a request for refund, no ORDER and DEMAND for payment is needed or necessary.

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

DATED this _____ day of _____ 2013.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2013, 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.
