

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25486
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (Petitioner) protested the tax correction letter dated November 14, 2012, sent by the Revenue Operations Division of the Idaho State Tax Commission, denying his request for refund in the total amount of \$1,173. Petitioner believes his refund should be allowed because of the misinformation the Tax Commission gave him regarding his 2008 Idaho income tax return. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioner filed a 2008 Idaho individual income tax return requesting a refund of his excess withholdings. The Tax Commission received Petitioner’s 2008 return on June 25, 2012. During processing, Petitioner’s return was identified as a return that had a potential error. The Taxpayer Accounting Section (Taxpayer Accounting) reviewed Petitioner’s return and found that Petitioner’s claim for refund was past the statute of limitations for issuing or crediting a refund. Taxpayer Accounting sent Petitioner a correction letter stating his refund was denied because his claim for refund was past the statute of limitations.

Petitioner protested Taxpayer Accounting’s correction stating the reason his 2008 Idaho income tax return was filed after the statute of limitations was because he was given bad information from the Tax Commission’s staff. Petitioner stated he received a letter regarding the filing of his 2009 and 2010 income tax returns, which made him question whether he filed his 2008 income tax return. Petitioner stated he contacted the Tax Commission and was told nothing

about his 2008 return. Petitioner stated after filing his 2009 and 2010 returns, he discovered he did not have a copy of his 2008 return. Petitioner contacted the Tax Commission a second time and was told he had not filed an income tax return for taxable year 2008. Petitioner stated he immediately prepared and filed his 2008 return, but by that time it was past the April 15, 2012 statute of limitations deadline. Petitioner stated that if he had been told on his first contact with the Tax Commission that his 2008 return was not filed, he would have prepared the return and filed it before the statute of limitations ended. Petitioner believes he was not at fault for not filing his 2008 return within the statute of limitations. Petitioner stated that if he had owed tax on his 2008 Idaho income tax return, he would still be required to pay the tax plus any penalties and interest. Petitioner stated the [Redacted] ([Redacted]) allowed his refund and Idaho should do the same.

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

The Tax Commission sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner requested a telephone hearing, which was held on June 25, 2013. During the hearing, Petitioner stated he was notified by letter that he had not filed income tax returns for taxable years 2009 and 2010. Petitioner did not state if the notification came from the Tax Commission or the [Redacted]. Petitioner stated again that he contacted the Tax Commission about his income tax filings and was told that he should file the returns that were requested. Petitioner stated the Tax Commission representative told him if a 2008 return was needed it would have been asked for.

Petitioner stated he had copies of the correspondence requesting the returns and other contacts he documented with the Tax Commission. The Tax Commission requested copies of

this information, and received them a few days later. The Tax Commission, having reviewed all the information available, issues its decision upholding the Notice of Deficiency Determination for the reasons stated below.

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. Petitioner's 2008 return had a due date of April 15, 2009. The Tax Commission received Petitioner's 2008 income tax return on June 25, 2012; after the three year statutory period for filing a claim.

Petitioner argued his failure to file his 2008 Idaho income tax return was due to no fault of his own, but that of the Tax Commission, for not telling him his 2008 tax return had not been filed. Petitioner provided documentation that showed he was asked to file his 2009 and 2010 income tax returns. This request was made by the [Redacted] and not the Tax Commission. Petitioner stated he contacted the Tax Commission when he received the letters from the [Redacted] and asked whether he had filed Idaho income tax returns. The response he got was that he should file the Idaho returns too. At this point it is unclear what Petitioner asked in regards to his 2008 Idaho income tax return, but the response appears to have been if a 2008 return was not requested, the return was not needed. Petitioner claims this misinformation, or lack of informed information resulted in him not filing his 2008 Idaho income tax return within the statute of limitations.

Petitioner stated he was misled by what was said by the Tax Commission staff; however, without some documented evidence it is unknown exactly what question Petitioner asked the

representative, and if the representative's response may have been appropriate for the question asked. Nevertheless, if an employee of the Tax Commission made the statement, the Tax Commission or the government is not estopped by the previous acts, conduct, mistakes, or misinformation of its officers from collecting the tax. State of Idaho v. Adams, 90 Idaho 195, (1965). Although this is not a collection issue, the Tax Commission cannot change the law to suit the circumstances; it must enforce the law as it is written. State Tax Commission v. Stang, 135 Idaho 800, 25 P.3d 113, (2001).

Petitioner stated the only reason he missed the statute of limitations filing date is because of the misinformation he received from the Tax Commission. Consequently, he places the blame on the Tax Commission. However, what would Petitioner's excuse have been if the [Redacted] had never sent Petitioner the letters asking about his 2009 and 2010 federal income tax returns? Would Petitioner have blamed the Tax Commission for missing the statute of limitations if the [Redacted] letters came after the statute of limitations had expired? Why doesn't Petitioner blame the [Redacted] for not sending him a letter regarding his 2008 federal income tax return?

Regardless, Petitioner had the responsibility to file his income tax returns. Petitioner was required to file his 2008 Idaho income tax return by April 15, 2009, he did not. In addition to not filing his 2008 Idaho income tax return, Petitioner also did not file a 2009 or 2010 Idaho income tax return when those returns were due. For whatever reason Petitioner chose not to timely file his Idaho income tax returns, it is a stretch to say that Petitioner had no fault in missing the statute of limitations deadline.

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. Since Petitioner filed his 2008 return well after the

statute of limitations ended, the Tax Commission is obligated to deny Petitioner's request for refund.

THEREFORE, the Notice of Deficiency Determination dated January 9, 2013, 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 Petitioner's 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.
