

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 26045
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On October 9, 2013, the Revenue Operations Division (RevOp) of the Idaho State Tax Commission denied a request by [Redacted] (taxpayers) for refund of Idaho individual income taxes in the amount of \$822 for the period ending December 31, 2007. The taxpayers 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 22, 2013, RevOp received the taxpayers' 2007 Amended Idaho Individual Income Tax Return. The return was submitted for processing and a computer-generated letter was mailed to the taxpayers. The letter advised the taxpayers that the refund shown in the return was being denied because the time to claim the refund had expired.

The taxpayers appealed, and a deficiency notice was mailed to complete the requirements stated in the Idaho Code for processing a protest. The taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review, and a letter advising them of their rights regarding their appeal was sent.

Idaho Code § 63-3072(c) provides for a limit on the time to claim a refund of overpaid income taxes. However, paragraph (e) of that section provides an exception when the claim for credit or refund results from an operating loss carryback.

Idaho Code 63-3072 in pertinent parts states:

63-3072. Credits and refunds. (a) Subject to the provisions of subsections (b), (c) and (g) 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.

(e) If a claim for credit or refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the period of limitations prescribed in subsection (b) of this section, the period shall be that period which ends with the expiration of the fifteenth day of the fortieth month following the end of the taxable year of the net operating loss which results in such carryback.

(f) If an adjustment, which was made within the period of limitations as provided in this section, affects the amount of tax credit, net operating loss, or capital loss, claimed in a taxable year other than the tax year in which the adjustment is made, then adjustments to the credit, net operating loss, or capital loss, claimed in such other tax year may be made and a claim for credit or refund of tax, penalties or interest may be made even though such claim would otherwise be barred under the provisions of this section.

In the present case, the taxable year of the net operating loss is 2009. The taxpayers had until the fifteenth day of the fortieth month following the end of the taxable year of the net operating loss, to claim credit or refund of overpaid taxes, which, in this case, is April 15, 2013.

The taxpayers did not file the claim for credit or refund until July 22, 2013, when they filed the amended return to claim the net operating loss.

The taxpayers' preparer wrote a letter of appeal on their behalf, pointing to subsection (f) of section 63-3072 in support of the argument that the taxpayers' claim for refund in taxable year 2007 was within the statute of limitations.

Idaho Code § 63-3072 is clear in its language pertaining to the time period in which a claim pertaining to a net operating loss must be made. This is the fifteenth day of the fortieth month following the end of the taxable year of the net loss which results in the carryback. The taxpayers did not submit their 2009 amended return within this timeframe, therefore, no carryback is available to taxable year 2007. The Tax Commission finds Idaho Code § 63-3072(e), cited above, is controlling with respect to the taxpayers' refund claim for taxable year 2007.

THEREFORE, the Notice of Deficiency Determination directed to [Redacted] [Redacted] that denies the taxpayers a refund is APPROVED and MADE FINAL.

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

DATED this _____ day of _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.
