

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-475-424-256
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On June 5, 2015, the Revenue Operations Division of the Idaho State Tax Commission (Commission) denied a request by [Redacted] (petitioners) for a refund of Idaho business income tax in the amount of \$249 for the period ending February 28, 2009. The petitioners 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 May 23, 2014, the Tax Commission received from the petitioners for processing, an Idaho business income tax return for the tax period ending February 28, 2009. Because the time for claiming the refund shown in the return had expired, a letter was mailed to the petitioners advising them of the Commission’s intent to deny the refund. The petitioners objected, and a Notice of Deficiency Determination was issued, wherein the petitioners were advised the refund was denied and they had a right to appeal the determination.

The time for filing income tax returns is defined in Idaho Code § 63-3032. Which states in relevant part: (1) Except as provided in section 63-3033, Idaho Code:

- (a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the fifteenth day of April following the close of the calendar year **and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the fifteenth day of the fourth month following the close of the fiscal year.**

Idaho Code § 63-3072(c) defines the time allowed to claim refunds:

Credits and refunds. . . .

(c) Except as provided in subsection (e) of section 63-3035, 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. (Emphasis added.)

The period of limitation with respect to claiming a refund or credit of taxes shown in the Idaho business income tax return for the tax period ending February 28, 2009, expired on June 15, 2013. The Commission did not receive the business return for the period ending February 28, 2009, until May 23, 2014.

Idaho Code § 63-3072 and Idaho Code § 63-3032 are clear and unequivocal. The language in these sections “shall be made. . .” and “shall be filed” is not discretionary, but rather, is mandatory. The Commission finds Idaho Code § 63-3072(c) and Idaho Code § 63-3032 cited above, are controlling with respect to the petitioners refund or credit claim for the period ending February 28, 2009. No credit or refund can be given.

THEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated June 5, 2015, that denies the petitioners a refund, is APPROVED and MADE FINAL.

Since the petitioners’ refund was reduced, no demand for payment is made or necessary.

An explanation of the petitioners’ right to appeal this decision is enclosed.

DATED this _____ day of _____ 2015.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2015, 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.
