

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [Redacted]) DOCKET NO. 1-896-058-880
)
) Petitioner.)
)
) DECISION
)
 _____)

On June 3, 2015 the Revenue Operations Division (RevOp) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing additional Idaho individual income tax and interest for taxable year 2013 in the total amount of \$540.40 by rejecting his 2013 Idaho individual income tax return. The petitioner filed a timely protest and petition for redetermination of the NODD. The Tax Commission has reviewed the file, is advised of its contents and hereby issues its decision.

On February 12, 2014, the Tax Commission received for processing a 2013 Married, filing joint Idaho individual income tax return for the petitioner and his wife. The return was filed electronically, was processed, and a refund was issued. On October 2, 2014, the petitioner submitted a 2013 Married, filing separate Idaho individual income tax return. Because a return had already been filed for the petitioner, RevOp sent the petitioner a letter informing him the return was being disallowed.

The petitioner responded to the correction letter from RevOp, submitting a protest statement in which he claimed he had no knowledge of the joint return being filed and it was without his consent. A NODD was issued and the petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-3032 defines the due date of Idaho income tax returns:

63-3032. Time for filing income tax returns.

(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 15th 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 15th day of the fourth month following the close of the fiscal year.

Pursuant to Idaho Code § 63-3032, the petitioner's return was made on the basis of the calendar year, and therefore, the due date for filing his 2013 income tax return with Idaho was April 15, 2014.

Idaho Code § 63-3031 allows taxpayers to choose a filing status. Administrative Rule 805 provides further clarification and states:

805. JOINT RETURNS (Rule 805).

Section 63-3031, Idaho Code. (3-20-97)

01. Effect Of Filing Status Used On Federal Returns. A taxpayer shall use the same filing status with Idaho as used when filing returns with the Internal Revenue Service. (3-20-97)

02. In General. (3-20-97)

a. A married couple may file a joint return. Section 63-3024, Idaho Code, provides for joint return tax rates for individuals filing joint returns and for an individual qualifying as a surviving spouse or head of household. (3-20-97)

b. **If a married couple files a joint return and the due date for filing a separate return has expired for either spouse, separate returns may not be filed thereafter.** For example, a married couple files a joint return before April 15 in the year due and desires to change their federal and state election to file separately. They may do so only if they file the separate returns on or before April 15. (3-20-97) (Emphasis added.)

The Tax Commission finds Idaho Code § 63-3032 and Administrative Rule 805 cited above, are controlling. The clear statutory language sets a due date for filing an Idaho return and prohibits a couple from filing separate returns after the original return has been filed if the separate returns are not filed before the due date.

THEREFORE, the NODD directed to [Redacted], dated June 3, 2015, that disallows the Married, filing separate Idaho individual income tax return, and the refund requested on that return, is APPROVED and MADE FINAL.

The additional tax due shown on the NODD was the difference between the amount of refund issued on the original return and the amount of refund requested on the amended return. The refund is denied; therefore no demand for payment is made or necessary.

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

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.
