

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 39147
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On November 7, 2014, the Revenue Operations Division of the Idaho State Tax Commission (Commission) denied a request by [Redacted] (petitioner) for a refund of Idaho individual income tax in the amount of \$427 for the period ending December 31, 2010. The petitioner 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 June 15, 2014, the Commission received, for processing, an amended Idaho individual income tax return from the petitioner for taxable year 2010. Because the time for claiming the refund shown in the return had expired, a letter was mailed to the petitioner advising him of the Commission’s intent to deny the refund. The petitioner objected and a Notice of Deficiency Determination was issued, wherein the petitioner was advised the refund was denied and they had a right to appeal the determination.

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

Credits and refunds. . . .

(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, or amounts paid as backup withholding under section 63-3036B, 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.

The period of limitation with respect to claiming a refund or credit of taxes shown in the Idaho income tax return for 2010 expired on April 15, 2014. The Commission did not receive the petitioners' amended return for taxable year 2010 until June 16, 2014.

Idaho Code § 63-3072 is clear and unequivocal. The language in this section "shall be made. . ." is not discretionary, but rather, mandatory. The Commission finds Idaho Code § 63-3072(b), cited above, is controlling with respect to the petitioner's refund or credit claim for taxable year 2010. No credit or refund can be given.

THEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated November 7, 2014, that denies the petitioner an additional refund is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's 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.
