

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 39175
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (petitioner) protests the Notice of Deficiency Determination (NODD) issued by the staff of the Idaho State Tax Commission (Commission) dated December 19, 2014. The Notice of Deficiency Determination (NODD) denied a requested refund from 2008 in the amount of \$828 plus applicable interest.

The petitioner claimed a refund from 2008 due to a carryback of a net operating loss carried back from 2010. The claim was signed by the fiduciary on June 7, 2014, and was received by the Commission on June 15, 2014. The staff of the Commission denied the claim, stating that the statute of limitations for the filing of the claim for the carryback of the net operating loss had expired prior to the date on which the claim was filed by the petitioner.

The petitioner appealed, stating the following:

The taxpayer disagrees with the position Idaho is taking in regards to the timeliness of the filing of the 12/31/08 amended return for the trust. The trust incurred a net operating loss on the 12/31/10 amended return which was carried back to the 12/31/08 tax year. Where a refund claim originates from the carryback of a loss, the limitation period ends 3 years after the extended due date of the loss year return or, in this case, on October 17, 2014. The original return for the 12/31/10 tax year was extended to a filing deadline of October 17, 2011. The amended 2010 tax return was filed on or about June 19, 2014. Please process the 12/31/08 amended return as it was filed within the time frame allowed under IRC Section 6511(b)(2)(A). (Emphasis in original.)

The petitioner relies on the [Redacted] statute of limitations for the deadline for applying the Idaho net operating loss. However, the Idaho statutes provide the statute of limitations, for

the filing of a claim relating to the carryback of a net operating loss. Idaho Code § 63-3072 states, in part:

(e) If a claim for credit or refund relates to an overpayment attributable to a net operating loss carryback or a capital 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 or capital loss which results in such carryback.

The Commission finds that the proper statute of limitations to be applied in this matter is the one provided in the Idaho law. The Commission further finds that the claim in question was filed after the statute of limitations had expired.

THEREFORE, the Notice of Deficiency Determination dated December 19, 2014 is hereby 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.
