

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 1-440-387-072
[Redacted])	
)	
Petitioner.)	DECISION
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)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated August 12, 2015, issued by the Revenue Operation Division of the Idaho State Tax Commission reducing his refund request for taxable year 2014 in the total amount of \$399. Petitioner disagreed that the federal credit for claim of right per Internal Revenue Code (IRC) section 1341 was not an allowable credit on his 2014 Idaho individual income tax return. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioner filed his 2014 Idaho individual income tax return claiming a refund that included a credit of \$399 for a claim of right repayment made in 2014. Petitioner claimed this amount as withholding or as a form 51 estimated payment on his 2014 income tax return. During processing, Petitioner's income tax return was identified as a return with an error. The Taxpayer Accounting Section (Taxpayer Accounting) reviewed Petitioner's return and found nothing to support Petitioner's claim of withholding. Taxpayer Accounting sent Petitioner a correction letter stating his refund was reduced because there was no evidence of withholding or a form 51 estimated payment.

Petitioner protested Taxpayer Accounting's correction stating the claimed credit was a claim of right credit. Petitioner provided the information that did not get transmitted to the Tax Commission when Petitioner's 2014 return was electronically filed to support the claim for credit. Taxpayer Accounting and Petitioner exchanged further correspondence with the end

result being Taxpayer Accounting not allowing the credit because at the time Idaho did not have a provision allowing a credit for a claim of right repayment; Idaho had a deduction. Petitioner continued his protest stating the deduction was no benefit to him since he had no taxable income. Petitioner further argued the addition of Idaho's credit for a claim of right repayment as adopted by the 2015 Idaho legislature should be allowable for taxable years beginning January 1, 2014, to bring it in alignment with Idaho's IRC conformity legislation passed in 2015.

Taxpayer Accounting reviewed Petitioner's argument, sent Petitioner a Notice of Deficiency Determination, and referred the matter for administrative review.

The Tax Commission sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner's representative replied that Petitioner had passed away and that they had no further information to provide. Petitioner's representative asked that the Tax Commission make its redetermination based upon the information submitted.

LAW AND ANALYSIS

Idaho Code section 63-3022F in effect for taxable year 2014 stated,

COMPUTATION OF TAX WHERE TAXPAYER RESTORES SUBSTANTIAL AMOUNT HELD UNDER THE CLAIM OF RIGHT. In the case of a taxpayer who is entitled to a reduction in federal tax due to the restoration of an item of gross income under section 1341 of the Internal Revenue Code (relating to the computation of tax where the taxpayer restores a substantial amount held under claim of right), there shall be allowed a deduction in determining Idaho taxable income as provided in section 1341(a)(4) of the Internal Revenue Code, if not otherwise deducted by the taxpayer for Idaho income tax purposes. In computing the deduction allowable under this section, no deduction shall be allowed if the item of gross income for a prior taxable year was not included in Idaho taxable income.

This statute was first adopted by the 2005 Idaho legislature. In 2015, the 2015 Idaho legislature amended Idaho Code section 63-3022F¹ and added a new section 63-3029F.² Both sections were adopted and made effective retroactive to January 1, 2015, thus making a claim of right credit available for taxable years beginning on or after January 1, 2015. Petitioner claimed the credit on his 2014 Idaho income tax return, but as stated the credit was not available for taxable year 2014. The available claim of right provision for taxable year 2014 was an Idaho deduction from Idaho adjusted gross income.

Petitioner argued that because he had no taxable income the deduction did not benefit him. Petitioner argued further that the effective date for Idaho Code section 63-3029F should be January 1, 2014, to be consistent with the IRC conformity bill passed by the 2015 Idaho legislature for taxable years beginning on or after January 1, 2014.

House Bill 77 was the bill the 2015 Idaho legislature passed to bring the Idaho income tax code into conformity with the IRC “as amended, and in effect on the first day of January 2015.” The conformity bill was signed by the Governor on February 23, 2015, and had an effective date retroactive to January 1, 2015. Petitioner argued that if the conformity bill’s

¹ Idaho Code section 63-3022F. COMPUTATION OF TAX WHERE TAXPAYER RESTORES SUBSTANTIAL AMOUNT HELD UNDER THE CLAIM OF RIGHT. In the case of a taxpayer who is entitled to a reduction in federal tax due to the restoration of an item of gross income under section 1341 of the Internal Revenue Code (relating to the computation of tax where the taxpayer restores a substantial amount held under claim of right), there shall be allowed a deduction in determining Idaho taxable income as provided in section 1341(a)(4) of the Internal Revenue Code, if not otherwise deducted by the taxpayer for Idaho income tax purposes. In computing the deduction allowable under this section, no deduction shall be allowed if the item of gross income for a prior taxable year was not included in Idaho taxable income. If the taxpayer has claimed a credit for claim of right income repayment adjustment under section 63-3029F, Idaho Code, then there shall be added to federal taxable income any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year. (Underlining added to denote amended part of the statute.)

² Idaho Code section 63-3029F. CLAIM OF RIGHT INCOME REPAYMENT ADJUSTMENTS. (1) Subject to the provisions of this section, a credit against the taxes otherwise due shall be allowed to a taxpayer for a claim of right income repayment adjustment.

(2) The credit under this section shall be allowed only if the taxpayer’s federal tax liability is determined under section 1341(a) of the Internal Revenue Code.

(3) The amount of the credit shall equal the difference between:

(a) The taxpayer’s actual Idaho state income tax liability for the tax year for which the claim of right was included in gross income for federal tax purposes; and

(b) The taxpayer’s Idaho state income tax liability for that tax year, had the claim of right income not been included in gross income for federal tax purposes.

(4) A credit under this section shall be allowed only for the tax year for which the taxpayer’s federal tax liability is determined under section 1341 of the Internal Revenue Code for federal tax purposes.

(5) If the amount allowable as a credit under this section, when added to the sum of other amounts allowable as a payment of tax and other refundable credit amounts, exceeds the taxes imposed (reduced by any nonrefundable credits allowed for the tax year), then the excess shall be treated as an overpayment of tax and shall be refunded or applied in the same manner as other tax overpayments.

(6) As used in this section, "claim of right income" means:

(a) An item included in federal gross income for a prior tax year because it appeared that the taxpayer had an unrestricted right to the item; and

(b) An item for which the taxpayer’s federal tax liability is adjusted under section 1341 of the Internal Revenue Code because the taxpayer did not have an unrestricted right to the item of gross income.

effective date was January 1, 2015, some of the provisions unique to tax year 2014 for federal purposes would not be available on the 2014 Idaho return. Petitioner reasoned if those unique provisions are allowed for conformity, to be consistent, the claim of right credit should also be allowed.

Petitioner's argument is dealing with two separate and distinct issues; 1) the conformity of the Idaho Code, and 2) a modification found in the Idaho Code. Idaho Code section 63-3004, which the conformity bill amends, provides in subsection (b) that, "[P]rovisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date provided for such amendments, deletions, or additions, including retroactive provisions." Therefore, by this provision any mid-year changes made to the IRC get incorporated into the Idaho law for the tax year it was added with the same effective date as provided in the federal legislation upon adoption of the conformity bill. This provision allows those unique federal law changes to be added to a prior taxable year.

Idaho follows the IRC in the determination of taxable income, subject to modifications contained in the Idaho law (Idaho Code section 63-3002). Idaho Code sections 63-3022F and 63-3029F are modifications contained in the Idaho law. As such, each section has its own provisions and its own effective dates. In this case, Idaho Code section 63-3022F was in effect for taxable years beginning on or after January 1, 2005, until it was amended by the 2015 Idaho legislature, which gave the amended statute a new effective date for the added provision of the amendment for taxable years beginning on or after January 1, 2015. Idaho Code section 63-3029F was adopted and in effect on January 1, 2015, for taxable years beginning on or after January 1, 2015. Because Petitioner's claim of right repayment was in taxable year 2014, the

only remedy available is a deduction from Idaho adjusted gross income. The credit made available by Idaho Code section 63-3029F did not exist for taxable year 2014.

CONCLUSION

Petitioner filed an Idaho individual income tax return for taxable year 2014 claiming a credit for a claim of right repayment reported as income in a prior tax year. The Idaho Code allowing for a claim of right applicable to tax year 2014 allowed a deduction rather than a credit. However, due to Petitioner's circumstances, a claim of right deduction to Petitioner's income provided him with no tax benefit in the year of the claim of right, 2014.

The Tax Commission cannot change the law to suit the circumstances; it must enforce the law as it is written. State Tax Commission v. Stang, 135 Idaho 800, 25 P.3d 113, (2001). Idaho law did not allow a credit for a claim of right repayment in tax year 2014. Therefore, the Tax Commission must uphold the Notice of Deficiency Determination reducing Petitioner's request for refund.

THEREFORE, the Notice of Deficiency Determination dated August 12, 2015, and directed to **[Redacted]** is hereby AFFIRMED.

Since the Notice of Deficiency Determination denied a request for refund, no ORDER and DEMAND for payment is needed or necessary.

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

DATED this _____ day of _____ 2016.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2016, 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.