

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 39225
[Redacted])	
)	
)	DECISION
Petitioner.)	

[Redacted] (petitioner) protests the Notice of Deficiency Determination issued by the staff of the Idaho State Tax Commission (Commission) dated February 25, 2015. The Notice of Deficiency Determination (NODD) reduced a claimed refund for 2006 from \$1,661 to \$64 and denied a \$554 claimed refund for 2007.

The petitioner was audited by the Internal Revenue Service for 2006 through 2009. The federal taxable income of the petitioner was reduced for 2006 and increased for the other years. The petitioner had, on their original Idaho income tax return, reported net operating losses on both their 2008 and 2009 Idaho income tax returns. The claim for refunds for 2006 and 2007 were due to carrying the net operating losses back from 2008 and 2009, respectively. The 2006 claimed refund also included an amount to reflect the reduction in federal taxable income due to the federal audit. Both claims were filed on or about June 23, 2013.

The staff of the Commission denied the refunds from the carryback of the net operating losses stating that the claimed losses were not claimed in a timely manner. The staff allowed the portion of the 2006 refund attributable to the reduction in federal taxable income. The petitioner protested the denial of the claimed refunds due to the carryback of the net operating losses.

Idaho Code § 63-3072 sets out the statutes of limitation regarding credits and refunds. It states, in pertinent part:

(d) Notwithstanding any other provisions of this section, when Idaho taxable income and/or tax credits for any taxable year have been adjusted as a result of a

final federal determination, the period of limitations for claiming a refund or credit of tax, penalties, or interest shall be reopened and shall not expire until the later of one (1) year from the date of delivery of the final federal determination to the taxpayer by the internal revenue service, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this subsection, the term “final federal determination” shall mean the final resolution of all issues which were adjusted by the internal revenue service. When the final federal determination is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (b) and (h) of this section, only those specific items of income, deductions, gains, losses or credits which were adjusted in the final federal determination shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(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 only contested issue is whether the statute of limitations had expired for carrying the net operating losses back from 2008 and 2009. The petitioner’s Idaho apportionment factor was not changed for either year with the filing of the amended returns. Since the losses for both 2008 and 2009 were reduced by the federal audit, none of the net operating loss is due to the federal audit of the petitioner’s 2008 and 2009 income tax returns. Accordingly, the matter is controlled solely by Idaho Code § 63-3072(e). This subsection allows until “the fifteenth day of the fortieth month following the end of the taxable year of the net operating loss” in which to file the claim carrying the net operating loss back. These periods expired on April 15, 2012 and April 15, 2013 for 2008 and 2009, respectively. Accordingly, the claims here in issue were filed after the expiration of the time allowed for carrying the net operating losses back.

THEREFORE, the denial of the refund here in question, is hereby APPROVED, AFFIRMED, AND MADE FINAL.

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.
