

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 1-813-583-872
 [REDACTED],)
)
 Petitioners.) DECISION
)
 _____)

[REDACTED] (Petitioners) protested the Notice of Deficiency Determination dated December 9, 2019. Petitioners believe their refund should be allowed due to the circumstances which caused their electronic filing to be rejected. The Tax Commission reviewed the file and agreed that Petitioners’ refund be denied.

BACKGROUND

Petitioners attempted to file their 2014 Idaho individual income tax return electronically. Petitioners’ return was rejected because their federal return was rejected due to tax return related identity theft of one of Petitioners’ claimed dependents. A paper copy of Petitioners’ return was prepared but the Tax Commission did not receive a copy of that return.

During its routine review of the Tax Commission’s records, the Tax Discovery Bureau (Bureau) found that Petitioners did not file a 2014 Idaho individual income tax return. The Bureau sent Petitioners a letter asking about their requirement to file an Idaho income tax return. Petitioners responded that they were required to file, and they provided a copy of their 2014 income tax return. The Bureau received Petitioners’ 2014 Idaho return on September 3, 2019. The Bureau acknowledged receipt of Petitioners’ return and sent it for processing with the normal review.

Petitioners’ return was processed and identified as one with an error. The Taxpayer Accounting Section (Taxpayer Accounting) reviewed Petitioners’ return and found that Petitioners were requesting a refund that was past the statute of limitations for crediting or issuing. Taxpayer

Accounting sent Petitioners a letter stating their claim for refund was past the statute of limitations. Petitioners protested stating that they were not aware that the Tax Commission did not receive their 2014 return until being contacted by the Bureau. Petitioners stated it was an obvious error that the Tax Commission did not receive their electronically filed return. Petitioners stated as soon as they were notified of the missing return, they immediately sent a copy to correct the issue. Petitioners asked that the Tax Commission consider the circumstances when evaluating their protest.

Taxpayer Accounting acknowledged Petitioners' protest and referred the matter for administrative review. The Tax Commission sent Petitioners a letter giving them the options available for redetermining their denied refund. Petitioners did not respond. Seeing that Petitioners had opportunity to further their argument, the Tax Commission reviewed the matter and issues its decision.

LAW AND ANALYSIS

Idaho Code section 63-3072(c) states that a claim for credit or refund of amounts withheld must be made within three (3) years of the due date of the income tax return required to be filed, without regard to extensions, for the taxable year with respect to which the tax was withheld or paid. Petitioners' 2014 return had a due date of April 15, 2015. The Tax Commission received Petitioners' 2014 income tax return on September 3, 2019; well after the three-year statutory period for filing a claim.

Petitioners stated when they were notified of the missing return, they immediately sent a copy to the Bureau. Idaho Code section 63-3072(g) provides for an extension of the statute of limitations in the case of a duplicate return file under the provisions of Idaho Code section 63-217(1)(b). Idaho Code section 63-217(1)(b) provides that if a return is mailed but not received by

the Tax Commission, it shall be deemed filed or received on the date it was mailed if the sender (taxpayer) establishes by competent evidence that the return was deposited in the United States mail on or before the filing date. In such cases, if the taxpayer files a duplicate within fifteen days after written notification, the statute of limitations remains open until the later of one year after the filing of the duplicate return or the date otherwise provided in Idaho Code section 63-3072.

Petitioners stated their electronic return was rejected. Petitioners also stated a paper return was prepared that could be mailed. However, Petitioners did not say the return was mailed and they offer no proof that their return was deposited in United States mail. Since Petitioners did not establish by competent evidence that their return was placed in the United States mail, the statute of limitations is not extended to the one year after filed within fifteen days of notification. Because the statute of limitations was not extended, the normal statute of limitations applies, which is three years from the due date of the return or April 15, 2018.

It is unfortunate Petitioners' dependent's social security number was used in a filing of tax return fraud. However, Petitioners could have filed their paper Idaho return when they filed their paper federal return to protect themselves from the statute of limitations.

The Tax Commission must enforce the law as written. *Bogner v. State Tax Commission*, 107 Idaho 854, 693 P.2d 1056, (1984). The statute makes no exception in this case to the requirement that a claim for refund be made within three years of the due date of the return. Therefore, the Tax Commission cannot issue the claimed refund.

CONCLUSION

The Idaho statute is clear when it states a claim for refund or credit must be filed within three years from the due date of the return. Petitioners could have filed a paper return when their electronic return was rejected and protected themselves from the statute of limitations expiring.

The Idaho Code has no exceptions for circumstances such as Petitioners'. Therefore, the Tax Commission must deny Petitioners' request for refund.

THEREFORE, the Tax Commission AFFIRMS the Notice of Deficiency Determination dated December 9, 2019, directed to [REDACTED].

Since the Tax Commission denied a request for refund, no ORDER and DEMAND for payment is needed.

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

DATED this _____ day of _____ 2020.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2020,
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:

Receipt No.



