

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-630-916-096
)	
Petitioner.)	DECISION
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Taxpayer Accounting issued a Notice of Deficiency Determination (Notice) to (Petitioner) for tax year 2019 after she filed an amended return and requested a refund. Petitioner protested the Notice and provided additional information. The case was then transferred to the Tax Commission’s Appeals unit (Appeals). The Tax Commission has reviewed the matter and issues its decision to DENY the requested refund of \$2,968.

BACKGROUND

Petitioner filed an amended 2019 return to change her filing status from married filing joint to head of household and to remove around 52% of the income originally reported. Petitioner paid \$2,994 on her original return and she requested a \$2,968 refund on her amended return. Taxpayer Accounting sent Petitioner a letter in response to her amended return explaining they had disallowed her change in filing status because she did so after the due date of April 15, 2020. Petitioner protested, providing correspondence from the Internal Revenue Service (IRS) stating:

“We didn’t allow your spouse’s personal exemption and Earned Income Credit on your tax return. Your spouse’s Social Security Number was missing, or the last name provided doesn’t match our records or the records provided by the Social Security Administration.”

Petitioner argued the reason why the IRS changed her return was because her ex-husband’s ITIN number had expired the year before. She explained they were not on speaking terms and did not live together the last six months of 2019. Her four children lived with her full time and that qualifies her for the head of household filing status. She then explained that she received verbal

guidance from the IRS that the only way to fix the issue would be to amend the return. After this information was provided, her case was transferred to Appeals for redetermination.

An informal hearing was conducted with Petitioner and her tax preparer to discuss the matter further. Petitioner reiterated the points made in her written protest and cited a court case believing it supported her position. Petitioner's tax preparer stated she amended the 2019 return to do a community property allocation because Idaho is a community property state.

ISSUE

The issue in this case is whether Petitioner should be able to change her filing status from married filing joint to head of household after the 2019 tax return due date.

LAW AND ANALYSIS

Idaho Tax Administrative Rule 805.b. states:

“If a married couple files a joint return and the due date for filing a separate return has expired for either spouse, separate returns may not be filed thereafter. For example, a married couple files a joint return before April 15 in the year due and desires to change their federal and state election to file separately. They may do so only if they file the separate returns on or before April 15.”

This administrative rule references Treasury Regulation 1.6013-1(a)(1). Petitioner is aware of these regulations and rules but cites *Ibrahim v. Commissioner of Internal Revenue No. 14-2070* (8th Cir. 2015) stating that the taxpayers protested the definition of “separate return” and won. The Tax Commission has reviewed this case and concludes it is not relevant to Petitioner's situation. In the cited court case, taxpayers wanted to change their filing status from head of household to married filing joint after the due date. Internal Revenue Code section 6013(b)(1) states in part (emphasis added):

...if an individual has filed a separate return for a taxable year for which a joint return could have been made by him and his spouse under subsection (a) and the time prescribed by law for filing the return for such taxable year has expired, **such**

individual and his spouse may nevertheless make a joint return for such taxable year...

The situation in the court case is permissible under the Internal Revenue Code stated above. In Petitioner's case, she was attempting to change her status from married filing joint to head of household. The law is clear: Joint filers may only file separate returns if they do so before the due date of April 15.

CONCLUSION

Petitioner made an election to file joint Idaho and Federal returns for 2019. She amended her return after the due date to reverse this election to file as head of household. Without a final federal determination accepting Petitioner's amended return, the Tax Commission must follow the current law as written. Applying the guidance of Idaho Tax Administrative Rule 805.b and Treasury Regulation 1.6013-1(a)(1), the Tax Commission finds that Petitioner is not permitted to file a separate return after the 2019 due date and the appropriate action is to reject her amended return.

No DEMAND for payment is required as this decision denies Petitioner's refund.

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

DATED this _____ day of _____ 2023.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2023,
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.
