

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 2-097-895-424
,)	
)	
Petitioner.)	DECISION
_____)	

The Tax Discovery Bureau (Bureau) at the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to (Petitioner). Petitioner filed a timely appeal and petition for redetermination of the Notice. Petitioner failed to schedule a hearing or submit additional documentation during the appeals process. The Tax Commission has reviewed the file and hereby issues its decision.

PART 1: UNFILED TAX RETURNS

Petitioner, a resident of Idaho who operates a farming activity, did not file Idaho individual income tax returns for tax years 2012, 2015, 2016, 2017 and 2018. The Bureau requested Petitioner file his tax returns but did not receive a response. The Bureau determined income tax deficiencies and issued a Notice.

Petitioner appealed contending the Bureau's income tax calculations were incorrect. The Bureau requested Petitioner file tax returns to support his claim. Petitioner submitted tax returns for tax years 2012, 2015, 2016, and 2017. The Bureau reviewed the returns and canceled the Notice for these tax years. Petitioner did not file a tax return for tax year 2018.

Idaho Code section 63-3030(1) provides residents of Idaho are required to file an Idaho income tax return if they are required to file a federal income tax return under Internal Revenue Code section 6012(a)(1). Internal Revenue Code section 6012(a)(1) provides taxpayers must file tax returns when their gross income exceeds the sum of (1) their standard deduction amount

(including the additional amount for age but not blindness), and (2) their allowable personal (not dependency) exemptions.

If a taxpayer fails to file a return when required, the Tax Commission can prepare a return and issue a Notice based on the information available. The Tax Commission's determination of a deficiency is presumed correct, and the taxpayer bears the burden of proving it incorrect. *Parker v. Idaho State Tax Comm'n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010).

The Tax Commission finds Petitioner, having not filed his tax return for tax year 2018, having not introduced any documentary evidence, and minimal testimonial evidence, has failed to prove the Notice is incorrect. Therefore, the Tax Commission will uphold the deficiency determination for tax year 2018.

PART II: CREDITS AND REFUNDS

For tax years 2015 and 2016, Petitioner reported overpayments of tax. When Petitioner submitted these returns, it was past the three-year statute of limitations for a claim for credit or refund of overpayments of tax. Accordingly, the Bureau disallowed the claims for credit or refund of overpaid taxes as being out-of-statue. Petitioner did not appeal the disallowance. Shortly afterwards, the tax law changed and allowed a ten-year statute of limitations for a claim for credit of overpayments of tax.

The Tax Commission's goal during the appeals process is to resolve tax controversies without litigation on a basis that is fair and impartial to both the Tax Commission and the taxpayers. To review the evidence submitted to support a fair and just decision of issues relating to taxation.

Ordinarily, the Tax Commission will not raise new issues, unless the ground for such action is a substantial one and the potential effect upon the tax liability is material. Also, ordinarily, we

do not consider matters not specifically or distinctly raised and argued. However, because of the tax law changes, the Tax Commission has expanded the scope of this decision to include a discussion on the credits and refunds of overpayments.

Prior to Idaho House Bill 715 of 2022, Idaho Code section 63-3072(c) provided a claim for credit or refund of overpayment of taxes shall be made within three years of the due date of the return.

After Idaho House Bill 715 of 2022, Idaho Code section 63-3072(c) provides, a claim for refund of overpayment of taxes shall be made within three years of the due date of the return and a claim for credit of overpayment of taxes shall be made within ten years of the due date of the return.

An overpayment exists when the amount paid as tax exceeds the amount properly owed. There is no general statutory definition of “overpayment” in the Idaho Income Tax Act. Although Idaho Code section 63-3041 describes overpayments, it does not define the term. The Supreme Court, however, has defined an “overpayment” as a payment of more tax than is properly owed. *U.S. v. Dalm, Francis*, (1990, S Ct) 65 AFTR 2d 90-1210, 494 US 596, 108 L Ed 2d 548, 90-1 USTC ¶50154, 90-1 USTC ¶60012, reh den (1990, S Ct) 495 US 941, 109 L Ed 2d 523; *Jones, H.C. v. Liberty Glass Co*, (1947, S Ct) 36 AFTR 377, 332 US 524, 92 L Ed 142, 48-1 USTC ¶9113, reh den (1948, S Ct) 36 AFTR 603, 333 US 850, 92 L Ed 1132.

If the amount allowable as refundable credits exceeds the income tax imposed for the tax year the amount of the excess is an overpayment. Although the Idaho Income Tax Act does not specifically state this, Idaho Code section 63-3001 states it is the intent of the Idaho legislature to make the Idaho Income Tax Act identical to the provisions of the Internal Revenue Code subject to only modifications contained in Idaho law.

Internal Revenue Code section 6401(b)(1) provides if the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 of subtitle A of the Code (“subpart C refundable credits”) exceeds the income tax imposed for the tax year (as reduced by the credits allowable under subparts A, B, D, and G) the amount of the excess is an overpayment. The following credits are the subpart C refundable credits

- . . . amount allowable as a credit under Code Sec. 31 for tax withheld on wages.
- . . . amount allowable as a credit under Code Sec. 32 for earned income.
- . . . amount allowable as a credit under Code Sec. 33 for tax withheld at source on nonresident aliens and foreign corporations.
- . . . amount allowable as a credit under Code Sec. 34 for certain uses of gasoline and special fuels.
- . . . amount allowable as a credit under Code Sec. 35 for health insurance costs of eligible individuals.
- . . . amount allowable as a credit under Code Sec. 36 for first-time home buyers; and
- . . . amount allowable as a credit under Code Sec. 36B for coverage under a qualified health plan.

A taxpayer should initiate recovery of any overpayment by making a claim for a refund. For an overpayment of income taxes for which a Form 40 has already been filed, a claim for refund is made on the appropriate income tax return.

Idaho Code section 63-3072(a) provides the Tax Commission shall credit any overpayment against a taxpayer’s past-due tax liability not barred by the statute of limitations.

The Tax Commission finds Petitioner initiated refund claims for tax years 2015 and 2016. The Tax Commission cannot refund these overpayments because they are past the three-year statute of limitations for claims of refund. However, these overpayments are within the ten-year statute for claims for credit. The Tax Commission must apply the 2015 and 2016 overpayments to Petitioner’s 2018 tax liability (interest, tax, and penalty) as determined by the Notice.

CONCLUSION

The Bureau added interest and penalty to the income tax deficiency. The Tax Commission reviewed those additions, found both to be appropriate per Idaho Code sections 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through September 10, 2022 and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated January 5, 2021, is hereby Modified, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2018	\$5,370	\$1,343	\$625	\$7,338
		Less overpayment credit		(312)
		Total Due		<u>\$7,027</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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

DATED this _____ day of _____ 2022.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2022,
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.

