

Memorandum of Decision Number: 03-20210014
Withholding Tax
For the Tax Year 2017

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this final determination.

HOLDING

Indiana Educational Institution demonstrated that it was entitled to the remaining of refund pursuant to the corrected W-2 statements submitted when it filed the GA-110L, Claim for Refund.

ISSUE

I. Withholding Tax - Refund.

Authority: IC § 6-8.1-9-1; [45 IAC 15-9-2](#); Commissioner's Directive 13 (October 2015); General Tax Information Bulletin 100 (December 2019).

Taxpayer protests the partial refund denial of withholding tax for 2017.

STATEMENT OF FACTS

Taxpayer is an educational institution. Taxpayer employs individuals who work in its Indiana location. Taxpayer withheld income tax on wages it paid to those individuals for 2017. In December 2020, Taxpayer filed a GA-110L, Claim for Refund, requesting a \$4,053.83 refund.

Upon initial review, the Indiana Department of Revenue issued a partial refund, in the amount of \$33.97. The Department, in a letter, explains, "No other overpayment exists on the December 2017 withholding tax period."

Taxpayer protests the partial refund denial. This final determination results. Additional facts will be provided, as necessary.

I. Withholding Tax - Refund.

DISCUSSION

The Department issued a \$33.97 refund because "No other overpayment exists on the December 2017 withholding tax period." Taxpayer disagreed, referencing its nine (9) corrected W-2 statements and a summary sheet. Therefore, the issue is whether Taxpayer demonstrated that it was entitled to the remaining refund.

IC § 6-8.1-9-1(a) affords a taxpayer a statutory right to file a claim for refund, which, in relevant part, provides:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. . . . [I]n order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax . . . is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

[45 IAC 15-9-2](#) further explains, in relevant part, that:

(b) The department has no legal method of generating a claim for refund. A claim for refund can only be initiated pursuant to [IC 6-8.1-9-1](#).

...

(d) When filing a claim for refund with the department the taxpayer's claim shall set forth:

- (1) the amount of refund claimed;
- (2) a sufficiently detailed explanation of the basis of the claim such that the department may determine its correctness;
- (3) the tax period for which the overpayment is claimed; and
- (4) the year and date the overpayment was made.

The claim for refund shall be filed on a form prescribed by the department.

The Department in its General Tax Information Bulletin 100 (December 2019), 20200401 Ind. Reg. 045200136NRA further explains:

2. Substance and Form of Claim

The department's claim for refund form is Form [GA-110L]. The claim for refund must be filed using Form GA-110L. Alternatively, ***a refund may be claimed using an amended income tax return or a withholding tax return (Form WH-3) that indicates an overpayment of those respective taxes. (Emphasis added).***

Thus, when a taxpayer determines it overpaid withholding tax, the taxpayer may file an amended Form WH-3 as prescribed by the Department in order to claim a refund. IC § 6-8.1-9-1(a); [45 IAC 15-9-2](#); General Tax Information Bulletin 100; see also Commissioner's Directive 13 (October 2015), 20151125 Ind. Reg. 045150407NRA. The taxpayer also must clearly state "the amount of the refund," "detailed explanation of the basis of the claim such that the department may determine its correctness," "the tax period for which the overpayment is claimed," and "the year and date of the overpayment." [45 IAC 15-9-2\(d\)](#).

In this instance, Taxpayer filed a GA-110L Form but did not file an amended WH-3 to claim the withholding tax refund. Without the amended WH-3 Form, the Department processed the refund claim, but erred in determining that the amount to be refunded was the amount stated in Taxpayer's "Total Correct" column in its summary.

After reviewing Taxpayer's supporting documentation, namely the nine (9) corrected W-2 statements, the Department is prepared to agree that Taxpayer demonstrated that it was entitled to the remaining refund as supported by its corrected W-2 statements.

FINDING

Taxpayer's protest is sustained.

March 2, 2021

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