

**Final Order Denying Refund: 03-20210010R**  
**Withholding Tax**  
**For Tax Years 2005 - 2016**

**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 Order Denying Refund.

**HOLDING**

Taxpayer failed to prove that the application of the statute of limitations was unfair or inappropriate and gave no convincing arguments as to why the Department should grant Taxpayer's refund claims that fell outside the statute of limitations.

**ISSUE**

**I. Indiana Withholding Tax - Statute of Limitations.**

**Authority:** IC § 6-8.1-9-1; *Medco v. Indiana Dept. of State Revenue*, 9 N.E.3d 263 (Ind. Tax 2014).

Taxpayer protests the Department's refund denial, claiming the application of the statute of limitations was not fair.

**STATEMENT OF FACTS**

Taxpayer is an Indiana entity which filed refund claims for tax years 2005 - 2019 for withholding tax it believed it overpaid. The Indiana Department of Revenue ("Department") refunded Taxpayer's claims for 2017, 2018, and 2019, but denied its claims for previous years as the claims were outside of the statute of limitations. Taxpayer protested the denial, and an administrative hearing was held. This Order Denying Refund results. Additional facts will be provided as necessary.

**I. Indiana Withholding Tax - Statute of Limitations.**

**DISCUSSION**

Taxpayer filed refund claims for overpaid withholding tax for tax years 2005 - 2019. The Department granted the refunds for 2017, 2018, and 2019, but denied the previous years' claims as they were outside of the statute of limitations. Taxpayer believes this was an unfair application of the statute of limitations as Taxpayer was never alerted regarding the overpayments.

The Indiana Code affords taxpayers a statutory right to file a claim for refund. IC § 6-8.1-9-1(a) provides, in relevant part:

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.

Accordingly, a taxpayer can claim a refund for excess withholding taxes remitted as long as they file their refund request within three years of the withholding tax remittance. Taxpayer filed their request in 2020; thus, any years prior to 2017 fell outside of the statute of limitations. Though Taxpayer believes it is unfair that the Department did not send notices or communication of the overpayments, the Department is not required to do so. This was confirmed by the Indiana Tax Court in *Medco Health Solutions Inc. v. Indiana Dept. of State Revenue* when it explained, "[t]he Department has no legal method of generating a claim for refund on its own; rather, a claim for refund can only be initiated by a taxpayer pursuant to the procedure set forth in Indiana Code § 6-8.1-9-1." 9 N.E.3d 263, 266 (Ind. Tax Ct. 2014) (citing [45 IAC 15-9-2\(b\)](#)).

Finally, Taxpayer presented the Department with a notice from a third-party, non-government entity informing Taxpayer that "funds[] issued by a state, city, or county government agency, may have been lost, misrouted, or misplaced." Taxpayer believes this could be related to the withholding tax overpayments. It is not clear to what this notice refers, but this third-party, non-government agency has no authority in Indiana. Thus, this notice holds no weight and is not persuasive. Taxpayer's protest is denied.

**FINDING**

Taxpayer's protest is denied.

May 21, 2021

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