

Letter of Findings: 02-20210041
Indiana Corporate Income Tax
For the Year 2016

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

The Department erred when it determined that out-of-state Logistics Company's refund request was untimely filed; to the extent that the Department found that the refund request was filed outside the three-year statute of limitations, Logistics Company's protest was sustained.

ISSUE

I. Indiana Corporate Income Tax - Statute of Limitations.

Authority: IC § 6-8.1-1-4; IC § 6-8.1-6-1; IC § 6-8.1-9-1; I.R.C. § 6081; [45 IAC 15-9-2](#).

Taxpayer argues that the Department erred when it denied the Taxpayer's refund request, represented on its 2015 return, on the ground that the refund request was filed outside of the three-year statute of limitations.

STATEMENT OF FACTS

Taxpayer is an out-of-state company in the business of providing services for transportation companies. Taxpayer provides its services to customers within the United States and outside the country.

Taxpayer filed its 2015 "Indiana Corporate Adjusted Gross Income Tax" (IT-20) form. That return was due April 15, 2016. However, Taxpayer accompanied the return with a federal form 7004 ("Application for Automatic Extension of Time") allowing Taxpayer an extended due date of October 15, 2016.

Thereafter, Taxpayer filed an amended IT-20X 2015 return. According to Taxpayer, the amended return was filed October 15, 2019. In that return, Taxpayer sought a refund of approximately \$400,000.

The Indiana Department of Revenue ("Department") denied the refund on the ground that the refund request was submitted outside of the three-year statute of limitations.

According to the Department, the amended return was due April 18, 2019 because no extension was filed along with the amended return. In a letter addressed to Taxpayer and dated January 29, 2021, the Department explained:

Indiana Code § 6-8.1-9-1 provides the time limitations for filing refund claims. Your request and claim for a refund was filed outside of that time and must be denied for the following filing period: December 31, 2015.

Taxpayer disagreed with the Department's determination that the amended return was untimely and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayer's representative explained the basis for the protest. This Letter of Findings results.

I. Indiana Corporate Income Tax - Statute of Limitations.

DISCUSSION

The one and only issue addressed in this Letter of Findings is whether Taxpayer has established that the Department was wrong when it found that Taxpayer's amended return - requesting a refund - was submitted outside the three-year statute of limitations.

In general, if any taxpayer believes that he or she has overpaid the tax, the taxpayer is required to timely file a claim for a refund with the Department. Specifically, IC § 6-8.1-9-1(a), in relevant part, states:

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. Except as provided in subsections (j) and (k), **in order to obtain the refund, the person must file the claim with the department within three (3) years after the later 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, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance 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. (Emphasis added).**

Additionally, "[i]f the Internal Revenue Service allows a person an extension on the person's federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days." IC § 6-8.1-6-1(c)(1).

[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. **(Emphasis added).**

Thus, when a taxpayer determines it overpaid tax - for example in a situation such as that explained by Taxpayer - the taxpayer must timely file the refund claim stating the overpayment as prescribed by the Department in order to claim that refund. IC § 6-8.1-9-1(a); [45 IAC 15-9-2](#). 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\(d\)](#).

Taxpayer's argument is that it filed the original IT-20 on October 15, 2016 which, according to Taxpayer, makes October 15, 2019, the last day on which to request a refund under IC § 6-8.1-9-1(a)(1).

The federal provision setting out the "extended due date" for C-Corporations is found at I.R.C. § 6081 (effective 2015). Knowing that Taxpayer filed a valid I.R.S. Form 7004, the federal due date - pursuant to I.R.C. § 6081 - became September 15, 2016 (also ignoring weekends). Since IC § 6-8.1-6-1(b) allows an additional 30 days from the federal due date, the Indiana due date was 30 days after September 15, 2016, which was October 15, 2016. In other words, Taxpayer's Indiana return was due on October 15, 2016 (ignoring weekends).

According to Taxpayer, it submitted its amended 2015 return October 15, 2019, which was within the three-year statute of limitations as extended by the federal extension. In other words, Taxpayer states that the extended due date of the amended return was October 15, 2019, and the amended return was filed October 15, 2019, within - barely - the three-year limitations period provided under IC § 6-8.1-9-1(a).

The Department apparently believes that the three-year clock began to run on April 18, 2016 the un-extended due date of the original 2015 return.

IC § 6-8.1-1-4 plainly provides that the extension date governs the issue.

"Due date" means the last date on which a particular act, such as filing a return or making a payment, may be performed and still be on time. *If an extension of time is allowed for performing a particular act, the "due date"*

is the last day of the extension period. (Emphasis added).

The extended due date of the original return was October 15, 2016. Under IC § 6-8.1-9-1(a)(1) had three-years from that date in which to claim a refund by - in this case - filing an amended return.

Taxpayer has provided documentation establishing that the refund request was submitted on or before the three-year statute of limitations expired on October 15, 2019, as established by the original October 15, 2016 due date.

Taxpayer was correct in arguing that the refund request was timely filed. On the sole issue of the timeliness of the request, Taxpayer's protest is sustained.

FINDING

To the limited extent described in this Letter of Findings, Taxpayer's protest is sustained.

May 14, 2021

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