

DEPARTMENT OF STATE REVENUE

04-20210020.ODR

Final Order Denying Refund: 04-20210020
Sales & Use Tax
For the Tax Period November 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

Individual failed to file a claim for refund within the three-year statute of limitations, therefore the Department denied her 2016 refund claim.

ISSUE

I. Individual Income Tax - Statute of Limitations.

Authority: IC § 6-8.1-9-1; *Medco Health Solutions, Inc. v. Indiana Dep't of State Revenue*, 9 N.E.3d 263 (Ind. Tax Ct. 2014); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the denial of her refund claim.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. The Indiana Department of Revenue ("Department") denied Taxpayer's claim for refund because she filed the claim beyond the statutory three-year period required to file a refund claim. Taxpayer protested the denial and elected to have an administrative hearing. This Final Order Denying Refund results. Additional facts will be provided as necessary.

I. Individual Income Tax - Statute of Limitations.

DISCUSSION

Taxpayer filed a GA-110L Claim for Refund for the overpayment of sales tax for the period ending November 30, 2016. The GA-110L was filed on August 27, 2020 and amended three months later. Taxpayer made a payment for the tax period ending November 30, 2016 on August 3, 2017, and filed a corresponding tax return on October 2, 2017.

The Department denied Taxpayer's claim for refund stating, "Indiana Code 6-8.1-9-1(a) requires that a claim for refund in excess withholding or estimated payments must be filed within a 3-year period in order to be refunded excess withholding or estimated payments. . . .Your claim requesting the refund was not received before the three-year statute of limitations ended."

"[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . .[courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

The Indiana Code provides guidance on filing a refund claim. IC § 6-8.1-9-1(a) 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. . . . in 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 due date for the tax period in this case was December 31, 2016. Via a collection agency, the Department collected a payment from Taxpayer on August 3, 2017. Taxpayer's GA-110L was filed August 27, 2020, more than three years after both the date of payment and the due date of the return. Taxpayer expressed the need for an exception to the three-year statute of limitations due to health concerns and claimed lack of Departmental notice. However, as provided by the Court in *Medco Health Solutions, Inc. v. Indiana Dep't of State Revenue*, 9 N.E.3d 263, 266 (Ind. Tax Ct. 2014), "The Department has no legal method of generating a claim for refund on its own[.]", and the Department is not required to send notice for the issues Taxpayer is claiming. Additionally, IC § 6-8.1-9-1 does not provide for exceptions to its limitations. Taxpayer's claim for refund falls outside of the statute of limitations and is therefore not entitled to a refund.

FINDING

Taxpayer's protest is denied.

November 30, 2021

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