

Final Order Denying Refund: 01-20211066
Indiana Individual Income Tax
For the 2015 Tax Year

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 determination.

HOLDING

A trust company has no legal authority to represent an Individual's estate. The estate was not entitled to a refund of tax withheld during 2015 because Individual failed to timely file the required Form IT-40, reporting the income in order to claim the refund.

ISSUE

I. Indiana Individual Income Tax - Claim for Refund - Statute of Limitations.

Authority: IC § 6-8.1-9-1.

A third-party trust company protests the Department's refund denial of Taxpayer's individual income tax for the 2015 year.

STATEMENT OF FACTS

Taxpayer, an Indiana resident, had worked in Indiana since the 1990s. Taxpayer's employer withheld tax on wages paid to him as statutorily required every year. The following year, Taxpayer then filed his Indiana income tax return, Indiana Full-Year Resident Individual Income Tax Return (Form IT-40), to claim any potential refund. Taxpayer stopped filing his Indiana income tax returns in 2016. In May 2021, Taxpayer passed away.

In April 2021, one individual on Taxpayer's behalf filed a Form IT-40 for 2015 to request a refund of \$90 tax withheld. The Indiana Department of Revenue ("Department") reviewed and denied the requested refund.

Subsequently, a trust company - claiming to be the personal representative of Taxpayer's estate - protested the refund denial and requested that the Department make the final determination without conducting an administrative hearing. This Final Order Denying Refund results based on the information submitted as well as the Department's records. Additional facts will be provided, as necessary.

I. Indiana Individual Income Tax - Claim for Refund - Statute of Limitations.

DISCUSSION

Upon initial review, the Department denied the refund claim. The Department, in its denial letter, explained that the refund claim in question was not timely pursuant to IC § 6-8.1-9-1(a). In particular, the letter states the following:

Indiana Code [§] 6-8.1-9-1(a) requires that a claim for refund of excess withholding or estimated payments must be filed within 3 year period in order to be refunded excess withholding or estimated payments. **This 3 year period generally begins on the due date of the tax return that should have been filed for the period in question.** Your claim requesting the refund was not received before the 3 year period had expired. Therefore, your claim . . . has been denied. **(Emphasis added).**

A trust company claimed to be the personal representative of Taxpayer's estate, in its protest letter, stated the following:

Due to [Taxpayer] declining health, Indiana individual tax returns for years 2015 - 2020 were not filed. Please find the attached forms to claim the \$90 refund due from 2015 tax return:

- Protest Submission Form

- 2015 Indiana individual tax return
- Death Certificate
- Letters [of] Personal Representative

Please forward the refund to . . . Louisville, KY 40232.

The above letter seemingly suggested that the three-year statute of limitations should not have run "[d]ue to [Taxpayer] declining health." However, the author of the above letter did not reference any legal authority to support the argument that the *circumstance* - according to the above - should toll the three (3) year statute of limitations.

Upon further review, the Letters [of] Personal Representative submitted stated that the trust company is the personal representative for a different individual's estate in a different county. As such, the trust company is not authorized to represent Taxpayer in this case.

In conclusion, given the totality of the circumstances and in the absence of other verifiable supporting documents, the Department is not able to agree that the trust company has the legal authority to represent Taxpayer and that the three-year statute of limitations should not have run. The Department correctly applied the three-year statute of limitations provided under IC § 6-8.1-9-1(a).

FINDING

Taxpayer's protest is respectfully denied.

January 31, 2022

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