

Memorandum of Decision: 01-20211063
Income Tax
For The Year 2017

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. 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. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Memorandum of Decision.

HOLDING

Couple's Indiana amended individual income tax return was timely filed and refund request was not outside of the statute of limitations.

ISSUE

I. Tax Administration - Statute of Limitations.

Authority: IC § 6-8.1-9-1; IC § 6-3-4-3; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayers protest the denial of refund.

STATEMENT OF FACTS

Taxpayers are a married couple, filing jointly. Taxpayers timely filed their original 2017 Indiana individual income tax return. On April 14, 2021, Taxpayers filed Indiana Form IT-40X amending their 2017 return. Under "Part 1 Explanation of Changes," Taxpayers specifically stated, "Please see explanation on Attached Form 1040X." Taxpayers reduced their taxable income to remove monies improperly included as taxable interest income. Per the new calculations in the amended return, Taxpayers were owed a refund.

On June 30, 2021, Taxpayers' refund request was denied by the Indiana Department of Revenue ("Department") because Form 1040X was not included with the amended return. A short time later, Taxpayers provided the Department with a copy of federal Form 1040X.

On August 3, 2021, the Department denied the refund request because it was outside of the three-year period required to file a refund claim. Taxpayers protested the denial and requested resolution without a hearing. This Memorandum of Decision results. Additional facts will be provided as necessary.

I. Tax Administration - Statute of Limitations.

DISCUSSION

The issue is whether Taxpayers' request for a refund was timely filed. Taxpayers' original 2017 return was timely filed. On April 14, 2021, Taxpayers filed an amended 2017 return and requested a refund. On the amended return, Taxpayers specifically referenced the federal Form 1040X for explanation as to why the refund was being requested. The Department denied the refund stating the amended return did not include a copy of Form 1040X.

On July 27, 2021, Taxpayers provided the Department with a copy of their federal Form 1040X along with another copy of the amended return. After review, the Department again denied the refund request stating the request was outside the three-year statute of limitations under IC § 6-8.1-9-1(a).

As a threshold issue, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. "[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).

IC § 6-8.1-9-1(a) affords a taxpayer a statutory right to file a claim for refund. This statute provides, in 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 later of the following:

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

Taxpayers provided copies of their amended return, Form 1040X, and copies of post-marked envelopes showing the dates items were mailed as part of their protest.

Taxpayers filed their original return on April 16, 2018. IC § 6-3-4-3 requires returns to be filed on "the 15th day of the fourth month following the close of the tax year." If April 15 falls on a Saturday, Sunday, or legal holiday, the due date is moved to the next business day. *Id.* Because April 15, 2018, was a Sunday, tax returns were due on April 16, 2018. Based on this date, Taxpayers had until April 16, 2021, to request a refund related to 2017 taxes. Taxpayers filed their amended return on April 14, 2021. The amended return filing date was within the three-year period under IC § 6-8.1-9-1(a).

Taxpayers included a notation for the Department to review the enclosed Form 1040X with the initial filing of the amended return. In their protest letter, Taxpayers stated that they included Form 1040X with the initial filing of the amended return. Despite this note, the Department denied the refund on the basis that Form 1040X was not included with the amended return. When Taxpayers were notified of the alleged deficiency, they immediately provided the Department with a copy of Form 1040X. The copy was received by the Department shortly after Taxpayers were notified.

Despite receiving Form 1040X, the Department considered the submission of the supposedly missing documentation to be a second, separate claim for refund and denied the refund request as now being outside of the three-year statute of limitations. Per the initial amended return submission, Taxpayers asserted they provided a copy of Form 1040X. Since Taxpayers did not have Form 1040X and included it with the initial filing and the subsequent filing, Taxpayers timely filed their refund request and timely responded to the Department's notification. Taxpayers provided a copy of Form 1040X as soon as they were notified of the Department's reasoning.

Considering the documentation provided, Taxpayers have established that they timely filed their refund request pursuant to IC § 6-8.1-9-1(a). Taxpayers provided Form 1040X with the initial filing and also timely provided a copy of Form 1040X after the Department's response. Based on the Department's decision to deny the refund request as being outside the statute of limitations and on the documentation and analysis provided by Taxpayers regarding their initial amended return filing, Taxpayers' protest is sustained, and their refund will be issued.

FINDING

Taxpayers' protest is sustained.

February 8, 2022

Posted: 04/27/2022 by Legislative Services Agency
An [html](#) version of this document.