

Final Order Denying Refund: 01-20211068
Individual Income Tax
For The Tax Year 2015

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 was not entitled to refund of individual income tax because the refund request was filed outside the three-year statute of limitations.

ISSUE

I. Individual Income Tax - Statute of Limitations.

Authority: IC § 6-8.1-9-1; IC § 6-3-4-3; IC § 6-8.1-6-2; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer argues his claim for refund of individual income tax should not be barred by the three-year statute of limitations.

STATEMENT OF FACTS

In 2015, Taxpayer was employed by an Indiana-based company. Taxpayer lived in New York, near where he worked at his employer's construction site. Taxpayer was not an Indiana resident, but he used his mother's mailing address in Anderson, Indiana for correspondence purposes.

Taxpayer's employer withheld taxes from his salary as if he were an Indiana resident. Taxpayer filed an Indiana return for tax year 2015. Neither Taxpayer nor his tax preparer noticed the error related to the withholding taxes.

In the latter part of 2021, Taxpayer was contacted by the New York Department of Taxation and Finance ("NYDTF"). Taxpayer was informed he failed to file a return in New York for tax year 2015 and owed associated taxes. After explaining the circumstances, NYDTF allowed Taxpayer to pay the 2015 taxes and penalty and waived the accrued interest.

Taxpayer then requested a refund from the Indiana Department of Revenue ("Department") in late 2021. The Department denied the refund request stating it was outside the three-year statute of limitations. Taxpayer disagreed and submitted a protest to that effect. An administrative phone hearing was held. The Final Order Denying Refund results. Additional facts will be provided as necessary.

I. Individual Income Tax - Statute of Limitations.

DISCUSSION

The issue is whether Taxpayer's request for a refund was timely filed. The Department denied Taxpayer's refund request stating the request was outside the three-year statute of limitations under IC § 6-8.1-9-1.

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. (**Emphasis added.**)

Taxpayer provided a copy of his 2015 Indiana Part-Year or Full-Year Nonresident Individual Income Tax Return (Form IT-40PNR), a copy of his 2015 New York State Nonresident and Part-Year Resident Income Tax Return (Form IT-203), a copy of the New York State payment voucher and cancelled check, and correspondence from New York State Department of Taxation and Finance.

IC § 6-3-4-3 requires returns to be filed on "the 15th day of the fourth month following the close of the taxable year." If a due date falls on a Saturday, Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the due date is moved to the next business day. IC § 6-8.1-6-2. Emancipation Day was observed as a holiday in Washington, DC, on Friday, April 15, 2016. Due to the holiday, the IRS extended the tax filing deadline to Monday, April 18, 2016. As a result of the IRS extension and pursuant to IC § 6-8.1-9-1(a), Taxpayer had three years, or until April 18, 2019, to request a refund related to his 2015 taxes.

Taxpayer did not request a refund of his 2015 taxes until late 2021. His request was well outside of the cutoff date of April 18, 2019, for the three-year statute of limitations. The Department is compelled to follow the provisions of IC § 6-8.1-9-1(a) and was correct when it denied the 2015 refund claim on the ground that it was submitted after the running of the statute of limitations.

FINDING

Taxpayer's protest is denied.

February 17, 2022

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