

Final Order Denying Refund: 01-20211004
Individual Income Tax
For The Tax Year 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 was not entitled to a refund because the amended return was filed outside of the three-year statute of limitations.

ISSUE

I. Individual Income Tax - Statute of Limitations.

Authority: IC § 6-3-4-3; IC § 6-8.1.6-1; IC § 6-8.1-9-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); Income Tax Information Bulletin 18 (August 2014).

Taxpayer protests the denial of refund after filing an amended return.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. In August 2020, Taxpayer filed amended returns for tax year 2016 at both the federal and state levels. Taxpayer requested a refund on the amended Indiana return. Taxpayer has not shown he requested or was granted an extension of any due date. The Indiana Department of Revenue ("Department") denied the refund because the amended return was filed outside of the three-year statute of limitations. Taxpayer protested the denial and requested a final determination without a hearing. This Final Order Denying Refund results. Additional facts will be provided as necessary.

I. Individual Income Tax - Statute of Limitations.

DISCUSSION

The Department determined Taxpayer was not entitled to a refund because his amended return was filed outside of the three-year statute of limitations. Taxpayer protests that there were extenuating circumstances that were beyond his control and that the Department should allow time for filing beyond the statutory three-year limit.

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.

Due dates for filing individual income tax returns can be extended under IC § 6-8.1.6-1(c) if the following requirements are met:

- (1) If 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.

(2) If a person petitions the department for a filing extension for the person's Indiana adjusted gross income tax return or financial institutions tax return without obtaining an extension for filing the person's federal income tax return, the department shall extend the person's due date for the person's Indiana adjusted gross income tax return or financial institutions tax return for the same period that the person would have been allowed under subdivision (1) if the person had been granted an extension by the Internal Revenue Service.

Generally, if a federal extension has been granted, the Department also requires contemporaneous submission to the Department of a copy of Form 4868, which notifies the Department a federal extension exists. See Income Tax Information Bulletin 18 (August 2014) 20140827 Ind. Reg. 045140324NRA.

In support of his protest, Taxpayer provided copies of his original 2016 corporate federal tax return, 1040X amended federal individual income tax return, IT-20 amended Indiana corporate return along with copies of various letters from the city of Indianapolis, state of Indiana, and Department of Veterans Affairs regarding Taxpayer's business' status as a minority and veteran owned small business.

In his protest letter, Taxpayer explained that the delay in filing the amended return was due to his request for federal S-Corporation status for his business. Taxpayer applied to be an S-Corporation in August 2020, with an effective date of January 1, 2016. Due to the COVID-19 pandemic, Taxpayer was not notified until May 2021 that his request for S-Corporation status was denied. As a result of the denial, Taxpayer filed amended federal and state tax returns for 2016.

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, 2017, was a Saturday, tax returns were due on April 17, 2017. Based on this date, Taxpayer had until April 17, 2020, to request a refund related to his 2016 taxes. Taxpayer did not provide any documents showing he requested an extension of his filing date at either the federal or state level.

Taxpayer provided copies of his federal and state tax returns with his protest. The documents were not signed by Taxpayer. Dates on the forms, as indicated by Taxpayer's CPA, were August 24, 2020, and June 13, 2021. At the Department's request, Taxpayer also provided a copy of his originally filed 2016 return. This return, prepared by a different CPA, also was not signed or dated.

Considering the documentation provided, Taxpayer has not established that he timely filed his refund request pursuant to IC § 6-8.1-9-1(a). Taxpayer's 2016 federal and state tax returns were both due April 17, 2017. Taxpayer has not shown he requested or was granted an extension of this due date. As such, any refund request must have been made by April 17, 2020. Taxpayer's amended returns are dated well after the statute of limitations cutoff date of April 17, 2020. Taxpayer's protest is denied.

FINDING

Taxpayer's protest is denied.

March 3, 2022

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