

Letter of Findings Number: 01-20120058
Individual Income Tax
For the Tax Years Ending December 31, 2007, and 2008

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ISSUE

I. Individual Income Tax – Statute of Limitations.

Authority: IC § 6-3-4-8.

Taxpayer seeks a refund of Indiana individual income tax that he claims should be refunded.

STATEMENT OF FACTS

Taxpayer is an individual. Taxpayer resides in California; however, his employer withheld Indiana income tax on his wages. For 2007 through 2009, Taxpayer did not file Indiana individual income tax returns. On August 31, 2011, Taxpayer filed Indiana tax returns for these three years. On September 9, 2011, Taxpayer also filed an Indiana tax return for 2010.

For 2009 and 2010, the Indiana Department of Revenue ("Department") granted Taxpayer's requested refund. However, for 2007 and 2008, the Department denied Taxpayer's requested refunds because the request was untimely. Taxpayer requested an administrative hearing on the refund denial, which the Department conducted, and this Letter of Findings results.

I. Individual Income Tax – Statute of Limitations.

DISCUSSION

Taxpayer protests refunds denied for 2007 and 2008. The refunds represented amounts withheld by Taxpayer's employer. Taxpayer states that his employer erroneously withheld Indiana tax on his wages and did not correct the error until 2011. Taxpayer further states that he was required to pay California tax, penalty, and interest on the wages on which Indiana tax was erroneously withheld. The issue is whether the refund request was timely submitted.

Under IC § 6-3-4-8(h), a taxpayer must file an original Indiana individual income tax return within two years of the due date of that return in order to claim a refund for taxes withheld by an employer. For 2007, the due date of the return was April 15, 2008. For 2008, the due date of the return was April 15, 2009.

Taxpayer did not file an original Indiana individual income tax return for 2007 and 2008 until August 31, 2011. The latest date under IC § 6-3-4-8(h) for filing the returns was April 15, 2010 (for the 2007 tax year) and April 15, 2011 (for the 2008 tax year).

While the Department understands Taxpayer's issues trying to resolve his erroneous withholding and the fact that Taxpayer has been required to pay a portion of his tax twice, Indiana law has a statutory requirement to file an Indiana income tax return to seek the erroneously-withheld taxes within a prescribed time period. Taxpayer did not file his returns within that time period. Thus, Taxpayer's protest of his 2007 and 2008 refund claims was properly denied.

FINDING

Taxpayer's protest is respectfully denied.

Posted: 07/25/2012 by Legislative Services Agency

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