

Memorandum of Decision Number: 03-20160727R
Withholding 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 Memorandum of Decision.

HOLDING

Out-of-State Educational Institution demonstrated that it was entitled to a refund because it overpaid the withholding tax.

ISSUE

I. Withholding Tax - Refund.

Authority: IC § 6-8.1-9-1; [45 IAC 15-9-2](#).

Taxpayer protests the refund denial of withholding tax which it overpaid.

STATEMENT OF FACTS

Taxpayer is an out-of-state educational institution. For the 2015 tax year, Taxpayer employed three (3) individuals who are Indiana residents. Taxpayer withheld Indiana state and county income taxes on wages which it paid to those employees. Taxpayer timely reported and remitted the tax by means of the INTax website ("INTax"), an electronic filing system, established by the Indiana Department of Revenue ("Department") pursuant to the Indiana statutory mandate. When Taxpayer made the payment, however, the transfer failed because a "Debit Block" was placed on Taxpayer's bank account. The "Debit Block" automatically prohibits unauthorized electronic drafts from creditors, such as the Department. After Taxpayer contacted its bank to permit the Department to draft from Taxpayer's account, Taxpayer filed its return again by means of the INTax and the payment was made successfully. The Department's system recorded that Taxpayer filed two returns but only made one payment. The Department subsequently assessed Taxpayer on the missing payment, including the unpaid tax, interest, and penalty.

Taxpayer paid the full amount of the assessment and filed a claim for refund. Upon review, the Department denied Taxpayer's refund claim. Taxpayer protested the Department's refund denial. An administrative phone hearing was conducted during which Taxpayer's representative explained the basis for the protest. This Decision ensues. Additional information will be provided as necessary.

I. Withholding Tax - Refund.

DISCUSSION

Taxpayer claimed that it overpaid the withholding taxes because the Department's INTax failed to acknowledge that although the first payment failed, Taxpayer corrected the errors. Taxpayer asserted that it filed the subsequent 2015 withholding return and made the payment successfully. Taxpayer asserted that based on the missing payment, the Department erroneously imposed additional tax, interest, and penalty. Taxpayer maintained that since it paid twice on the same withholding tax liability, it had an overpayment and was entitled to a refund.

IC § 6-8.1-9-1(a) affords a taxpayer a statutory right to file a claim for refund, which, in relevant part, provides:

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 latter of the following:

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

. . . The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

[45 IAC 15-9-2](#) further explains, in relevant part, that:

(b) The department has no legal method of generating a claim for refund. A claim for refund can only be initiated pursuant to [IC 6-8.1-9-1](#).

. . .

(d) When filing a claim for refund with the department the taxpayer's claim shall set forth:

- (1) the amount of refund claimed;
- (2) a sufficiently detailed explanation of the basis of the claim such that the department may determine its correctness;
- (3) the tax period for which the overpayment is claimed; and
- (4) the year and date the overpayment was made.

The claim for refund shall be filed on a form prescribed by the department.

In this instance, Taxpayer stated that it properly withheld state and county income taxes on wages which it paid to three individuals who are Indiana residents pursuant to IC § 6-3-4-8 and [45 IAC 3.1-1-97](#). However, Taxpayer claimed that it had paid twice on the same withholding tax liability as a result of the "Debit Block." Taxpayer further provided additional documentation to support that it overpaid the withholding tax.

Upon review, Taxpayer's first transfer failed due to the "Debit Block" on its bank account. While Taxpayer contacted its bank to resolve the issue, unbeknownst to Taxpayer, the Department had assessed Taxpayer for the full amount of the missing payment. Taxpayer subsequently filed again and made the subsequent payment a second time, the INTax accepted as an additional filing and payment. As a result, Taxpayer paid twice on the same tax liability. The Department thus agrees that Taxpayer paid twice on the same tax liability and the Department shall refund the overpayment to Taxpayer.

FINDING

Taxpayer's protest is sustained.

Posted: 05/31/2017 by Legislative Services Agency
An [html](#) version of this document.