

Final Order Denying Refund: 04-20171001
Sales 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

Married couple did not establish that they overpaid Indiana income tax for 2016. Therefore, refund was correctly denied.

ISSUE

I. Income Tax–Refund.

Authority: IC § 6-3-2-2; IC § 6-8.1-9-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); [45 IAC 3.1-1-2](#).

Taxpayers protest the denial of a claimed refund of income tax.

STATEMENT OF FACTS

Taxpayers are a married couple who reside in another state. Taxpayers filed a claim for refund of income tax paid to Indiana for the tax year 2016. Taxpayers made their claim on the basis that their home state adjusted their 2016 income tax for that state by removing credits which Taxpayers claimed for income tax paid on gambling winnings to Indiana. The Indiana Department of Revenue ("Department") denied the claim for refund on the basis that the reason for claiming a refund was unclear and that Taxpayers did not include a copy of their 2016 federal return along with the refund claim. Taxpayers filed a protest of that denial and requested the Department to make its final decision without holding an administrative hearing. This Final Order Denying Refund results. Further facts will be supplied as required.

I. Income Tax–Refund.

DISCUSSION

Taxpayers protest the denial of a claim for refund of 2016 Indiana individual income tax. The Department denied the claim for refund on the grounds that the basis for the claim was unclear and unsupported by documentation. Taxpayers protest that they had gambling winnings in 2016 upon which they paid income tax to Indiana. In 2017, Taxpayer explains, their home state adjusted their home state income tax return to remove the credit for 2016 Indiana income tax they had claimed on their home state 2016 income tax return.

The Department notes that, "[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). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

IC § 6-8.1-9-1(a) states:

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. Except as provided in subsections (f) and (g), in 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.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the

end of the calendar year which contains the taxable period for which the return is filed. 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.

Next, IC § 6-3-2-2(a) and [45 IAC 3.1-1-2](#) provide that individuals, both resident and nonresident, must pay Indiana income tax on income from Indiana sources. In this case, Taxpayers apparently won money from gambling activities in Indiana. That income was generated from Indiana sources. Taxpayers paid 2016 Indiana income tax on that income. Later, Taxpayers' home state informed them that it did not allow credit for income tax paid on gambling winnings to another state. Taxpayers' home state therefore adjusted Taxpayers' home state tax return for 2016 and issued a bill which Taxpayers paid. Taxpayers then filed their claim for refund of the 2016 Indiana income tax they had previously paid.

Taxpayers have made no reference to any statute, regulation, or court case which would support their claim. The plain fact is that Taxpayers received income from Indiana sources and properly owed and paid income tax on that income. The fact that Taxpayers' home state does not allow a credit for taxes on gambling winnings paid to another state does not alter the taxable status of the income Taxpayers received from Indiana sources. Taxpayers correctly paid Indiana income tax as provided by IC § 6-3-2-2(a) and [45 IAC 3.1-1-2](#). Taxpayers' home state's denial of credit for that Indiana income tax does not mean that it was not correctly paid to Indiana. Taxpayers have not established that the claimed refund is properly due.

FINDING

Taxpayers' protest is denied.

Posted: 03/28/2018 by Legislative Services Agency
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