

**Final Order Denying Refund: 01-20181311  
Individual Income Tax  
For The Tax Year 2013**

**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 did not provide documentation supporting her position that her 2013 Indiana income tax return was filed in a timely manner. Therefore, the Department's denial of refund was correct.

**ISSUE**

**I. Individual Income Tax–Refund.**

**Authority:** IC § 6-8.1-9-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Medco v. Indiana Dept. of State Revenue*, 9 N.E.3d 263 (Ind. Tax 2014).

Taxpayer protests the denial of a claimed refund of income tax.

**STATEMENT OF FACTS**

Taxpayer is an individual Indiana resident. Taxpayer filed a claim for refund regarding her 2013 individual income tax. After review, the Indiana Department of Revenue ("Department") determined that Taxpayer had filed her claim past the statute of limitations for claiming a refund. The Department therefore denied Taxpayer's claim. Taxpayer protested the denial. An administrative hearing was conducted via telephone and this Final Order Denying Refund results. Further facts will be provided as required.

**I. Individual Income Tax–Refund.**

**DISCUSSION**

Taxpayer protests the Department's denial of her claim for refund of individual income tax for the year 2013. The Department denied the claim on the basis that Taxpayer filed the claim after the statute of limitations for filing a claim for refund had passed. Taxpayer protested that she filed in a timely manner and that the original filing claimed the refund. Taxpayer states that the 2017 filing was merely follow-up to the original filing.

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.

The filing date for 2013 Indiana income tax was April 18, 2014. This means that the three year deadline for filing a claim for refund of taxes paid was, at the latest, April 18, 2017. Taxpayer states that she did not receive a notice from the Department that it did not receive the 2013 return until after the April 18, 2017 deadline. Taxpayer feels that, since the Department's notice arrived after the expiration of the statute of limitations under IC § 6-8.1-9-1(a), the Department should not hold her to that time limit for claiming a refund. Taxpayer has made no reference to any statute, regulation, or court case to support this position. Further, since the Department had no record of receiving Taxpayer's return, it had no way of knowing that Taxpayer had claimed a refund.

Next, the Indiana Tax Court has addressed the issue of Departmental responsibilities regarding refund situations in *Medco v. Indiana Dept. of State Revenue*, 9 N.E.3d 263 (Ind. Tax 2014), when it provided:

**The Department has no legal method of generating a claim for refund on its own; rather, a claim for refund can only be initiated by a taxpayer pursuant to the procedure set forth in Indiana Code § 6-8.1-9-1.** 45 IND. ADMIN. CODE 15-9-2(b) (2003). Indiana Code § 6-8.1-9-1 provides that "[i]f 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." IND.CODE § 6-8.1-9-1(a) (2003) (amended 2012) (emphasis added). "[I]n order to obtain the refund, the person must *file* the claim with the department within three (3) years after the latter of ... [t]he due date of the return [or t]he date of payment." *Id.* (emphasis added). Furthermore, the claim must include certain information such as the amount of the refund to which the person is entitled, the reasons why the person is entitled to the refund, the tax period for which the overpayment is claimed, and the year and date of the overpayment. *Id.*; 45 I.A.C. 15-9-2(d). Finally, a claim for refund generally must be filed on the form prescribed by the Department. See 45 I.A.C. 15-9-2(d); *UACC Midwest, Inc. v. Indiana Dep't of State Revenue*, 629 N.E.2d 1295, 1298 (Ind. Tax Ct.1994) (explaining that although the taxpayer did not use the Department's prescribed form, its amended returns complete with explanatory statements qualified as claims for refund because they provided the Department with the information required by both Indiana Code § 6-8.1-9-1 and 45 I.A.C. 15-9-2).  
*Id.* at 266. (*Emphasis in original*). (**Emphasis added**).

Thus, a taxpayer who believes that they have overpaid any kind of tax must file a claim for refund with the Department. As explained by the court in *Medco*, the Department has no method of generating a claim for refund on its own.

Also, Taxpayer states that she filed her 2013 Indiana individual income tax return on time and that the refund claimed on that return was therefore timely filed. During the administrative hearing, Taxpayer stated that she had supporting documentation to establish the mailing date of that return. The Department allowed two weeks after the hearing date to provide that documentation. After waiting more than a month, the Department did not receive any documentation from Taxpayer. Therefore, Taxpayer has not established that she filed her 2013 Indiana individual income tax return within the time allowed under IC § 6-8.1-9-1(a).

In conclusion, Taxpayer has not established that the Department was required to inform her that it had not received her 2013 income tax return within the statute of limitations established under IC § 6-8.1-9-1(a). As explained by the court in *Medco*, the Department has no method of generating a refund claim. Finally, Taxpayer did not provide documentation establishing the date she claimed as the original filing date of her 2013 Indiana income tax return. Under these circumstances, the Department cannot agree that the claimed refund is properly due.

## FINDING

Taxpayer's protest is denied.

September 21, 2018

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