

**Final Order Denying Refund: 01-20181718R
Indiana Individual Income Tax
For the Years 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

Claimants, acting on behalf of recently deceased relative, were not entitled to receive a refund of relative's 2013 individual income tax because the claim was barred by the three-year statute of limitations; under either the statute's "due date of the return" provision or the "date of payment" provision, the refund claim was untimely.

ISSUE

I. Individual Indiana Income Tax - Timeliness of Refund Claim.

Authority: IC § 6-8.1-9-1(a); IC § 6-8.1-9-1(a)(1); IC § 6-8.1-9-1(a)(2).

On behalf of Taxpayer, Claimants argue they were entitled to a refund of individual income tax and the Department's denial of the refund was unreasonable.

STATEMENT OF FACTS

Claimants - acting on behalf of their recently deceased mother and Indiana Taxpayer - seek a refund of 2013 individual income tax.

Taxpayer passed away in 2017. Although Taxpayer filed Indiana tax returns during prior years, Taxpayer was unwell, under medical care, and failed to file tax 2012, 2013, 2014, 2015, and 2016 Indiana income tax returns. According to Claimants, Taxpayer refused to sign a power of attorney allowing family members to act on her behalf and refused to accept their assistance in any way.

In 2014, Taxpayer sent the Indiana Department of Revenue ("Department") a \$1,500 check for taxes purportedly due in 2013. Following Taxpayer's passing, Claimants assisted in resolving Taxpayer's estate including filing missing Indiana income tax returns. As to the 2013 return, Taxpayer owed \$53. Claimants requested that the \$1,447 overpayment be refunded. The Department denied the refund in a letter dated May 2018. The letter stated that the requested refund was barred by the three-year statute of limitations.

Claimants disagreed with the Department's decision and submitted a protest to that effect. An administrative hearing was conducted during which Claimants explained the basis for the protest. This Final Order Denying refund results.

I. Individual Indiana Income Tax - Timeliness of Refund Claim.

DISCUSSION

Claimants - acting on behalf of Taxpayer - argue that they are entitled to recover the \$1,447 refund because, during the time Taxpayer was under medical care, she was unable to properly tend to her business affairs and that it is not reasonable for the state to now retain the excess payment.

IC § 6-8.1-9-1(a) states in relevant 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. 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 later 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.

Taxpayer's 2013 income tax return was submitted by Claimants on Taxpayer's behalf and postmarked April 17, 2018. The \$1,500 payment was received by the Department April 15, 2014, but was unaccompanied by an original return. Based on the information available to the Department, the Department determined that the refund claim was untimely.

Although the Department is entirely sympathetic to Claimants' circumstances and their efforts to assist Taxpayer, the Department is bound by the law. Under either the IC § 6-8.1-9-1(a)(1) "due date of the return" provision or the IC § 6-8.1-9-1(a)(2) "date of payment" provision, the \$1,447 refund request is untimely. Under these facts the Department is not permitted to grant the requested refund.

FINDING

The Claimant's protest is respectfully denied.

September 20, 2018

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