

**Memorandum of Decision: 01-20182008R
Indiana Income Tax for the Year 2014**

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

Indiana Individuals' amended 2014 Indiana income tax return was timely filed because the due date for filing the return was extended by a federally recognized holiday.

ISSUE**I. Individual Income Tax - Timeliness of Amended Income Tax Return.**

Authority: IC § 6-8.1-6-2; IC § 6-8.1-9-1(a); I.R.C. § 7503.

Taxpayers argue that the Department erred in denying Taxpayers a refund of Indiana income tax in finding that Taxpayers' amended return was untimely.

STATEMENT OF FACTS

Taxpayers are resident Indiana individuals who file Indiana income tax returns. Taxpayers filed an amended 2014 Indiana income tax return. On that return, Taxpayers requested a refund of approximately \$2,600. In a letter dated August 2018, the Indiana Department of Revenue ("Department") denied the refund on the ground that the amended return was untimely filed. The Department's letter explained as follows:

Indiana Code 6-8.1-9-1(a) requires that a claim for refund of excess withholding or estimated payments must be filed within a 3 year period in order to be refunded excess withholding or estimated payments. This 3 year period generally begins on the due date of the tax return that should have been filed for the period in question. Your claim requesting the refund was not received before the 3 year period had expired. Therefore, your claim for refund in the amount of [] has been denied.

Taxpayers disagreed with the Department's decision denying the refund on the ground that the 2014 return was timely filed with the Department. Taxpayers submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayers' representative explained the basis for the protest. This Memorandum of Decision results.

I. Individual Income Tax - Timeliness of Amended Income Tax Return.**DISCUSSION**

The issue is whether Taxpayers' amended 2014 return was timely filed. Either the return was timely or it was not. This decision does not address any of the substantive issues which may or may not be related to that return.

Taxpayers' 2014 return was postmarked April 16, 2018. Taxpayer provided a certified mail receipt verifying the postmark date. According to Taxpayers, "The due date of the amended return was . . . extended until the 17th of April 2018."

The Department's decision denying the return is based on IC § 6-8.1-9-1(a) which provides as follows:

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.

In turn, Taxpayers cite to IC § 6-8.1-6-2.

If any due date falls on a Saturday, a Sunday, *a national legal holiday recognized by the federal government*, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one of those holidays.

(Emphasis added).

Taxpayers also rely on I.R.C. § 7503 which states:

When the last day prescribed under authority of the internal revenue laws for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday. For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time; *the term "legal holiday" means a legal holiday in the District of Columbia*; and in the case of any return, statement, or other document required to be filed, or any other act required under authority of the internal revenue laws to be performed, at any office of the Secretary or at any other office of the United States or any agency thereof, located outside the District of Columbia but within an internal revenue district, the term "legal holiday" also means a Statewide legal holiday in the State where such office is located.

(Emphasis added).

Taxpayers' return was filed April 16, 2018, because April 15, 2018, fell on a Sunday. April 16, 2018, fell on "Emancipation Day," a federally recognized "legal holiday." Taxpayers' assertion that the "due date of the amended return was . . . extended until the 17th of April 2018" is correct. Therefore, Taxpayers' amended 2014 Indiana return was timely filed.

FINDING

On the sole question of whether the amended return was timely filed, Taxpayers' protest is sustained.

November 16, 2018

Posted: 02/27/2019 by Legislative Services Agency
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