

Final Order Denying Refund: 01-20190749R
Indiana Individual Income Tax
For the 2014 Tax Year

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HOLDING

Individual was not entitled to a refund of tax withheld by her employer during 2014. Individual failed to demonstrate that she timely filed the required Indiana Full-Year Resident Return (Form IT-40) reporting her income in order to claim the refund.

ISSUE

I. Indiana Individual Income Tax - Claim for Refund - Statute of Limitations.

Authority: IC § 6-8.1-9-1; [45 IAC 15-9-2](#); Commissioner's Directive 13 (June 2012).

Taxpayer protests the Department's refund denial of individual income tax for the 2014 tax year.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who has been working in Indiana and filing her income tax returns reporting her Indiana income since 1990s. In March 2019, Taxpayer filed her 2014 Indiana income tax return - Indiana Full-Year Resident Individual Income Tax Return (Form IT-40) - requesting a refund of approximately \$300 tax withheld. The Indiana Department of Revenue ("Department") reviewed and denied the requested refund.

Taxpayer protested the refund denial. Taxpayer requested that the Department make the final determination without conducting an administrative hearing. This Final Order Denying Refund results based on the information submitted by Taxpayer as well as the Department's records. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Claim for Refund - Statute of Limitations.

DISCUSSION

In March 2019, Taxpayer filed her 2014 Indiana income tax return (IT-40), claiming that she was entitled to a refund of tax withheld by her employer during the 2014 year. The Department denied Taxpayer's refund claim on the ground that the refund claim was not timely.

In general, if a taxpayer believes that he or she has overpaid the tax, the taxpayer is required to timely file a claim for a refund with the Department. Specifically, IC § 6-8.1-9-1(a), in relevant part, 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 (j) and (k), 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. (Emphasis added).**

[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.

(Emphasis added).

Thus, when a taxpayer determines he or she overpaid tax, for example in a situation like this, the taxpayer must file his or her income tax return stating the overpayment as prescribed by the Department in order to claim a refund. IC § 6-8.1-9-1(a); [45 IAC 15-9-2](#); Commissioner's Directive 13 (June 2012), 20120530 Ind. Reg. 045120241NRA. The taxpayer also must clearly state "the amount of the refund," "detailed explanation of the basis of the claim such that the department may determine its correctness," "the tax period for which the overpayment is claimed," and "the year and date of the overpayment." [45 IAC 15-9-2](#).

IC § 6-8.1-9-1(b), in relevant part, further states that:

After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the person disagrees with a part of the decision on the claim, the person may file a protest and request a hearing with the department . . . **(Emphasis added).**

In this instance, upon initial review of Taxpayer's 2014 filing, the Department denied Taxpayer's refund claim. The Department, in its April 5, 2019, denial letter, explained in part, that the refund claim in question was not timely pursuant to IC § 6-8.1-9-1(a). In particular, the letter states the following:

This letter is in regard to your 2014 Indiana Individual Income Tax return.

Indiana Code [§] 6-8.1-9-1(a) requires that a claim for refund of excess withholding or estimated payments must be filed within 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 . . . has been denied. **(Emphasis added).**

Taxpayer's protest letter seemingly suggested that the three (3) years should not have run because "[a] friend volunteered to file my claim in 2014 [*sic*] . . . but [the friend] retired . . . , moved . . . misplaced, and . . . forgot about my claim." Taxpayer further stated that this friend became ill then and that only after this friend recovered from cancer treatment recently in 2019, her 2014 return was filed. As such, the circumstances - according to Taxpayer - shall toll the three (3) year statute of limitations. Taxpayer however did not reference any legal authority to support her protest.

Upon review, however, Taxpayer's reliance of the above-circumstances is misplaced. In particular, a review of Taxpayer's supporting documentation demonstrated that Taxpayer herself prepared, signed, and dated her 2014 return (Form IT-40) in March 2019. Taxpayer's return speaks for itself: Schedule 7 of her 2014 return stated "SELF-PREPARED." Thus, in the absence of other verifiable supporting documents, the Department is not able to agree that the three-year statute of limitations should not have run.

As mentioned earlier, for Indiana income tax purposes, to obtain the refund, IC § 6-8.1-9-1(a) requires that a taxpayer "must file the claim with the department within three (3) years after the [later] of . . . (1) [t]he due date of the return [or] (2) [t]he date of payment." Taxpayer's employer withheld tax on wages paid to her during and throughout 2014 and Taxpayer's income tax return was due on or before April 15, 2015. Thus, the later of the due date for claiming refund for 2014 is three (3) years from April 15, 2015. In other words, Taxpayer was required to

file her return to claim her 2014 refund on or before April 15, 2018. Taxpayer did not file her return on or before April 15, 2018. On March 21, 2019, Taxpayer filed her original IT-40 for the 2014 to claim a refund. Taxpayer's refund claim thus was untimely.

FINDING

Taxpayer's protest is respectfully denied.

June 19, 2019

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