

Final Order Denying Refund: 03-20190053R
Withholding Tax
For Tax Periods ending December 31, 2011 and December 31, 2012

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

Indiana limited liability company's claims for refunds of withholding tax remitted were properly denied as the claims were made outside of the statute of limitations for requesting refunds.

ISSUE

I. Indiana Withholding Tax - Statute of Limitations.

Authority: IC § 6-8.1-9-1; IC § 6-8.1-8-2.

Taxpayer seeks a refund of withholding tax paid.

STATEMENT OF FACTS

Taxpayer is an Indiana limited liability company. In October of 2018, Taxpayer discovered that it had overpayments pertaining to its withholding tax payments for the periods ending December 31, 2011, December 31, 2012, April 30, 2015, August 31, 2015, September 30, 2015, and December 31, 2015. As such, Taxpayer filed a refund claim for these overpayments. In January of 2019, the Indiana Department of Revenue ("Department") granted these refunds in part and denied the refunds for the tax periods ending December 31, 2011 and December 31, 2012 as they fell outside the statute of limitations.

Taxpayer timely protested the partial refund denial and included a Protest Submission Form with their protest, opting to waive an administrative hearing. Therefore, this Order Denying Refund results from the information Taxpayer provided in the protest. Additional facts will be provided as necessary.

I. Individual Income Tax - Statute of Limitations.

DISCUSSION

Taxpayer filed a refund claim requesting refunds of withholding tax remitted for various tax periods. The Department granted Taxpayer's request in part, but denied the request as it pertained to tax periods that were outside the statute of limitations for requesting refund.

The Indiana Code affords taxpayers a statutory right to file a claim for refund. IC § 6-8.1-9-1(a) provides, 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. . . . [I]n 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.

Accordingly, a taxpayer can claim a refund for excess withholding taxes remitted as long as they file their refund request within three years of the withholding tax remittance. Taxpayer filed their request in 2018; six years after the remittance of the tax. Therefore, for 2011 and 2012, Taxpayer's request fell outside of the statute of limitations.

In its protest letter, Taxpayer cites to IC § 6-8.1-8-2(f) which allows the Department at least ten years to file a

judgment on a tax warrant. Taxpayer argues that "[i]f it is not outside the statute of limitations to collect taxes back to 2011, how can it be beyond the statute of limitations to refund overpayment of those taxes?" The statutorily allotted time for the filing of a judgment has no bearing on the statutorily allotted time for requesting a refund. While the Department is sympathetic to Taxpayer's frustration, it is bound by the law. Taxpayer is respectfully denied.

FINDING

Because Taxpayer's refund request fell outside of the statute of limitations, Taxpayer's protest is denied.

July 18, 2019

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