

Final Order Denying Refund: 02-20190855R
Indiana Corporate Income Tax
For the 2014 Tax Year

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 determination.

HOLDING

Company was not entitled to a refund of tax because Company failed to demonstrate that its 2014 amended return was timely filed in order to claim the refund.

ISSUE

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

Authority: IC § 6-3-4-6; IC § 6-8.1-5-2; IC § 6-8.1-9-1; [45 IAC 15-9-2](#); *UACC Midwest, Inc. v. Indiana Dep't of State Revenue*, 629 N.E.2d 1295 (Ind. Tax Ct. 1994).

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

STATEMENT OF FACTS

Taxpayer is a subsidiary of a conglomerate company ("Parent"), doing business in Indiana and filing its Indiana corporate income tax returns reporting its Indiana income since the 1990s. In 2019, Taxpayer amended its 2014 Indiana corporate income tax return, requesting an approximately \$800 refund of income tax. The Indiana Department of Revenue ("Department") reviewed and denied the requested refund.

Taxpayer protested the refund denial, requesting that the Department make the 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 Corporate Income Tax - Claim for Refund - Statute of Limitations.

DISCUSSION

In February 2019, Taxpayer amended its 2014 Indiana corporate income tax return, claiming that it was entitled to an approximately \$800 refund. Taxpayer's amended filing did not contain any information concerning federal modifications made by the Internal Revenue Service ("IRS"). The Department reviewed the amended return (Form IT-20X) and denied Taxpayer's refund claim on the ground that the refund claim was not timely.

In general, if a taxpayer believes that it 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).**

IC § 6-8.1-9-1(k) permits additional time "[i]f an agreement to extend the assessment time period is entered into under [IC 6-8.1-5-2\(h\)](#), the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended."

In addition, when an overpayment of income tax is attributable to adjustments made by the IRS, IC § 6-8.1-9-1(j) further provides:

If a taxpayer's federal taxable income, federal adjusted gross income, or federal income tax liability for a taxable year is **modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:**

- (1) the date determined under subsection (a); or
- (2) **the date that is one hundred eighty (180) days after the date of the modification by the Internal Revenue Service as provided under:**
 - (A) [IC 6-3-4-6\(c\)](#) and [IC 6-3-4-6\(d\)](#) (for the adjusted gross income tax)

(Emphasis added).

Accordingly, a taxpayer generally has three (3) years from the due date of the return (or the date of payment) to request a refund of its overpayment, and the due date can be extended pursuant to an agreement. Only when the taxpayer's "federal taxable income, federal adjusted gross income, or federal income tax liability for a taxable year is modified by the [IRS], and the modification would result in a reduction of the tax legally due," will the taxpayer have additional 180 days - from the date of the IRS modification ("RAR adjustment") - to request a refund.

[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).

When a taxpayer determines it overpaid tax, for example in a situation like this, the taxpayer must amend its 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](#); *UACC Midwest, Inc. v. Indiana Dep't of State Revenue*, 629 N.E.2d 1295, 1298 (Ind. Tax Ct. 1994). 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 15, 2019, 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:

The Amended Corporate Income Tax Return for the above account period was filed after the Statute of

Limitations.

Pursuant to IC [§] 6-8.1-9-1 if a taxpayer has paid more tax that the taxpayer determines is legally due for a particular taxable period, they may file a claim for refund with the department. In order to obtain a refund, the claim must be filed 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.

Taxpayer, to the contrary, claimed that its amended return "met the 180 day[s] filing requirement of IC § 6-3-4-6(b)," a statutory provision which requires a taxpayer to notify the Department of any modification. Taxpayer referenced IC § 6-3-4-6(b)(2) to support its position that it was entitled to the approximately \$800 refund. Taxpayer offered a copy of its amended federal filing for 2014 and proof of mailing to demonstrate that Taxpayer amended its Indiana return within 180 days from the date its Form 1120X was mailed to the IRS. Taxpayer did not document the refund at issue was attributable to an RAR adjustment.

Upon review, Taxpayer is mistaken. To correctly report its Indiana income tax, IC § 6-3-4-6(b) mandates a taxpayer report any modification to the Department, regardless of overpayment or otherwise. In other words, this provision imposes Taxpayer a statutory obligation to correctly report its income tax; it does not establish the requirements to claim a refund.

On the other hand, as mentioned above, "[a] claim for refund can only be initiated pursuant to [IC 6-8.1-9-1](#)." [45 IAC 15-9-2\(b\)](#). In this instance, Taxpayer amended its federal return without an RAR adjustment. Without the RAR adjustment, IC § 6-8.1-9-1(j) is not applicable. Therefore, to determine whether Taxpayer timely filed its refund claim and was entitled to the refund in question, the Department must apply IC § 6-8.1-9-1(a).

A review of the Department's records further showed that Taxpayer filed its IT-20 on October 14, 2015 pursuant to a proper extension. Therefore, Taxpayer had three years from October 14, 2015 to timely request additional refund. In other words, Taxpayer must file its refund claim on or before October 13, 2018 to timely request the refund. Taxpayer's amended return was mailed and postmarked February 28, 2019 - more than 130 days late. Taxpayer's refund claim thus was untimely.

FINDING

Taxpayer's protest is respectfully denied.

August 26, 2019

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