

**Final Order Denying Refund: 01-20190539R
Individual Income Tax
For The Tax Year 2010**

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

Individual did not provide sufficient reason for the Department to refund previously remitted penalties, interest, and fees. Therefore, the initial denial of the claim for refund was correct.

ISSUE

I. Individual Income Tax–Refund.

Authority: IC § 6-8.1-9-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the denial of a claimed refund of penalties, interest, and fees associated with the payment of income taxes.

STATEMENT OF FACTS

Taxpayer is a resident of Indiana. In 2011, the Indiana Department of Revenue ("Department") issued a proposed assessment for additional income tax, plus penalty and interest to Taxpayer and her late husband for the tax year 2010. Numerous refund offsets were applied against the liability in the following years, although no payment plan was ever contracted. In 2019, Taxpayer paid the balance of the 2010 liability. Later in 2019, Taxpayer filed a claim for refund of penalty, interest, and fees associated with the 2010 liability. After review of the claims, the Indiana Department of Revenue ("Department") denied the claims for refund. Taxpayer protested the denial and an administrative hearing was held by telephone. This Final Order Denying Refund results. Further facts will be supplied as required.

I. Individual Income Tax–Refund.

Taxpayer protests the denial of her claim for refund of penalty, interest, and fees associated with a liability which the Department issued in 2011 for the 2010 tax year. The Department based its denial on the basis that the liability was issued in 2011 and was not fully paid until 2019. Taxpayer protests that she did not have the money to pay the liability until 2019. Further, Taxpayer explains that she is on a fixed income and that the refund of these amounts would be a great benefit. The Department reviewed the claim and determined that a refund was not warranted.

The Department notes that, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . .[courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

IC § 6-8.1-9-1(a) 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 (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.

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.

During the administrative hearing, Taxpayer reiterated that she paid the liability as soon as she was able and that the refund of penalty, interest, and fees would be very helpful in her economic situation.

After reviewing the matter, the Department simply cannot agree that refund of penalty, interest, and fees is warranted. The first notice of tax due was issued in 2011. The liability was not paid in full until 2019. Neither Taxpayer nor her late husband ever contacted the Department to address the liability or to seek a payment plan. Taxpayer has not referred to any statute or regulation which would allow the Department to take equity into account when determining tax liabilities or refunds.

FINDING

Taxpayer's protest is denied.

September 17, 2019

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