

**Final Order Denying Refund: 01-20191073R
Individual 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 Final Order Denying Refund.

HOLDING

Individuals submitted their 2014 Indiana individual income tax return in 2018. Their claim for a refund of withholding tax was barred by the three-year statute of limitations.

ISSUE

I. Individual Income Tax - Timeliness of Refund Claim.

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

Taxpayers protest the Department's refund denial.

STATEMENT OF FACTS

Taxpayers are individuals living in Indiana. Taxpayers filed their 2014 Indiana individual income tax return with Indiana Department of Revenue ("Department") January 4, 2019. The Department denied the refund stating that the claim was barred by the three-year statute of limitations. As explained in the letter, "Your claim requesting the refund was not received before the 3 year period had expired."

Taxpayers disagreed with the Department's decision and submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayers explained the basis for the protest. This Final Order Denying Refund results.

I. Individual Income Tax - Timeliness of Refund Claim.

FINDING

Taxpayers protest the denial of a claim for refund of Indiana individual income tax for the year 2014. The Department denied the claim on the basis that Taxpayers filed their amended 2014 Indiana individual income tax return past the statute of limitations for filing such a claim. Taxpayers stated that they relied on a professional to file all returns and he failed to file the individual return timely.

As an initial point, 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, as well as the initial refund determination, shall be entitled to deference.

IC § 6-8.1-9-1(a) provides:

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.

(Emphasis added).

Therefore, if a person has paid more tax than he or she believes was properly due, the person may claim a refund of the excess payment. In this case, Taxpayers claimed a refund of their 2014 income tax which had an original filing date of April 15, 2015. Therefore, the three-year deadline for filing a claim for refund of 2014 income tax was April 15, 2018. Taxpayers filed their 2014 return January of 2019. The statute referenced does not provide any exceptions to the rule. Therefore, based on IC § 6-8.1-9-1 Taxpayers' protest is denied. There is no statute that extends the deadline for filing a return in the event that a professional preparer fails in their duties.

FINDING

Taxpayers' protest is denied.

October 7, 2019.

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