

**Final Order Denying Refund: 01-20191220R
Individual Income Tax
For the Year 2014 and 2015**

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 submitted her 2014 and 2015 Indiana individual income tax returns in 2019. Her claim for refund of withholding tax was barred by the three-year statute of limitations under either the "claimed" or "paid" provision of that statute.

ISSUE

I. Individual Income Tax - Timeliness of Refund Claim.

Authority: IC § 6-8.1-9-1.

Taxpayer argues she is entitled to a refund of 2014 and 2015 income taxes.

STATEMENT OF FACTS

Taxpayer is an individual living in Indiana. Taxpayer requested two refund claims from the Indiana Department of Revenue ("Department"). Taxpayer claims that she was not aware her 2014 and 2015 taxes were not filed until 2018. The Department denied Taxpayer's claims stating that her claims were barred by the three-year statute of limitations.

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. Taxpayer waived her right to an administrative hearing. This Final Order Denying Refund results. Additional facts will be supplied as necessary.

I. Individual Income Tax - Timeliness of Refund Claim.

FINDING

Taxpayer argues she is entitled to her refund of taxes withheld on her behalf and attributable to the tax years 2014 and 2015. Taxpayer explained that her ex-husband was in charge of the family's tax preparation. Taxpayer's ex-husband left the family in 2018 and never filed taxes. Taxpayer realized this error when she received a letter from the Internal Revenue Service in 2018.

The issue raised by Taxpayer is addressed at IC § 6-8.1-9-1(a) which states 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 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.

Taxpayer's 2014 and 2015 returns under which the refund was sought was submitted to the Department in May 2019. The original returns were due, at the latest, April 2017 and 2018 respectively. The taxes were "paid" when the amounts were withheld by their employers during the calendar years 2014 and 2015 which also bars

Taxpayer's May 2019 claim under IC § 6-8.1-9-1(a)(2). Under either the "paid" or "claimed" provision of IC § 6-8.1-9-1(a), Taxpayer's claim is untimely.

FINDING

Taxpayer's protest is respectfully denied.

October 31, 2019

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