

## DEPARTMENT OF STATE REVENUE

01-20191491R.MOD

**Memorandum of Decision: 01-20191491R  
Individual Income Tax  
For Tax Year 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 Memorandum of Decision.

**HOLDING**

Individual's 2015 refund claim was filed within the statutory time period, thus the Department's refund denial was incorrect.

**ISSUE**

**I. Individual Income Tax - Refund Statute of Limitations.**

**Authority:** IC § 6-8.1-9-1; IC §6-8.1-6-1; 2015 Indiana IT-40 Full-Year Resident Individual Income Tax Booklet.

Taxpayer protests the Department's refund denial.

**STATEMENT OF FACTS**

Taxpayer is an individual who lives and works in Indiana. When attempting to file her 2014 Federal tax return ("2014 1040"), Taxpayer learned that a return had already been filed under her social security number. This led to several years of working with the Internal Revenue Service ("IRS") to prove identity theft and ultimately correct it. As a result of the process at the Federal level, Taxpayer's 2015 Indiana return ("2015 IT-40") was not filed until July of 2019. Taxpayer's 2015 IT-40 claimed a refund of \$990. The Indiana Department of Revenue ("Department") denied the refund for being filed outside the statute of limitations. Taxpayer filed a timely protest and an administrative hearing was held. Memorandum of Decision results. Additional facts will be supplied as necessary.

**I. Individual Income Tax - Refund Statute of Limitations.**

**DISCUSSION**

Taxpayer filed her 2015 IT-40 claiming a refund of \$990 in July of 2019. The Department denied Taxpayer's refund on the basis that Taxpayer failed to file her 2015 IT-40 within the three year statute of limitations.

Under IC § 6-8.1-9-1(a) (as in effect for the year at issue):

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.

Further, "[i]f the [IRS] allows a person an extension on the person's federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days." IC § 6-8.1-6-1(c)(1).

This policy was reiterated in the 2015 Indiana IT-40 Full-Year Resident Individual Income Tax Booklet states:

If you have a valid federal extension (filed Form 4868, or made an extension payment via an electronic filing method), you automatically have an extension with Indiana and do not have to file for a separate state extension (Form IT-9).

(Page 8.)

This case turns on the determination of the due date of the return. Without a federal extension, Taxpayer's 2015 1040 and 2015 IT-40 would have been due April 18, 2016. The claim for refund then would have been due by April 18, 2019. However, with a federal extension, Taxpayer's 2015 1040 would have been due October 15, 2016 and her 2015 IT-40 would have been due November 15, 2016. Under the guidance of IC § 6-8.1-6-1(c)(1), it follows that the refund claim would then be due November 15, 2019.

According to the authorities above, if a taxpayer obtained a valid federal extension, that extension automatically applies to the filing of their Indiana return for the same year. In this instance, not only did Taxpayer provide a copy of the Federal Form 4868 which requested the federal extension for tax year 2015; Taxpayer also provided her 2015 Federal Account Transcript which clearly states that the due date of Taxpayer's 2015 1040 had been extended to October 15, 2016. Taxpayer filed her 2015 IT-40 claiming a refund on July 8, 2019. It follows that Taxpayer's claim for refund was timely filed. Taxpayer is sustained.

### **FINDING**

Taxpayer's protest of the Department's denial of its 2015 refund claim is sustained.

February 25, 2020

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