

## DEPARTMENT OF STATE REVENUE

04-20191503R.ODR

**Final Order Denying Refund: 04-20191503R  
Individual Income Tax  
For Tax Year 2013**

**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's claim for refund for 2013 was properly denied as it was filed outside the statute of limitations.

**ISSUE**

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

**Authority:** IC § 6-8.1-9-1.

Taxpayer seeks a refund of Indiana sales tax.

**STATEMENT OF FACTS**

Taxpayer is an individual who produces digital music in Indiana. Taxpayer has been producing digital music for several years without a sale. Beginning in 1999, Taxpayer filed zero dollar sales tax returns with the Indiana Department of Revenue ("Department"). However, Taxpayer stopped filing sales tax returns in 2013. In lieu of returns, the Department issued best information available ("BIA") assessments for Taxpayer for tax years 2013 through 2017. Taxpayer paid those liabilities and filed a request for refund ("GA-110L") for tax years 2013, 2015, 2016, and 2017. The Department granted refunds for every year with the exception of 2013. Taxpayer filed a protest regarding 2013. An administrative hearing was held. This Order results. Additional facts will be provided as necessary.

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

**DISCUSSION**

From 1999 to 2012, Taxpayer filed zero dollar sales tax returns in Indiana. From 2013 to 2017, Taxpayer did not file any Indiana sales tax returns in Indiana. As a result, the Department issued Taxpayer BIA assessments for sales tax for those years. Taxpayer paid those assessments and filed a GA-110L for tax years 2013, 2015, 2016, and 2017. The Department granted all of the refunds except 2013, as the 2013 claim "was not filed within the time period required by law."

Under IC § 6-8.1-9-1(a):

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.

Accordingly, Taxpayer can claim a refund for the additional sales tax assessed as long as the claim is filed within three years of the due date of the sales tax return, or the date of Taxpayer's payment. The sales tax return was due on January 31, 2014. Taxpayer paid the assessed 2013 sales tax on May 31, 2014. Taxpayer filed the GA-110L on May 22, 2019, well beyond the three-year time period. Therefore, the Department is not able to agree that Taxpayer is entitled to the refund, and Taxpayer's protest cannot be sustained.

**FINDING**

Because Taxpayer's refund request fell outside the three year-time period, the Department's refund denial was

appropriate and Taxpayer's protest is respectfully denied.

March 19, 2020

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