

**Final Order Denying Refund: 01-20200111
Individual Income Tax
For Tax Year 2011**

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 2011 individual income tax 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 individual income tax.

STATEMENT OF FACTS

Taxpayer is an individual resident of Indiana. In December of 2019, Taxpayer filed his 2011 Indiana Individual Income Tax Return ("2011 IT-40") claiming a refund of \$3,632. The Indiana Department of Revenue ("Department") denied Taxpayer's refund as it fell outside the three year statute of limitations for claiming a refund. Taxpayer filed a timely protest. Along with his protest letter and documentation, Taxpayer provided a Protest Submission Form in which he waived his right to an administrative hearing. Therefore, this Order results from a review of the information provided by Taxpayer with his protest as well as other information available to the Department. Additional facts will be provided as necessary.

I. Individual Income Tax - Statute of Limitations.

DISCUSSION

Taxpayer has a long history of filing individual income tax returns in Indiana. Thus, when Taxpayer failed to file a 2011 IT-40, the Department created one for him based on the best information available ("BIA") to the Department. As a result the Department issued Taxpayer a BIA assessment of individual income tax of approximately \$4,700, which included base tax, penalty, and interest. Taxpayer failed to pay or respond to the BIA assessment, thus it staged to a Demand Notice in November of 2014. After no response from Taxpayer, the Department's third-party collection agency levied Taxpayer's accounts to collect the amount due.

In December of 2019 Taxpayer filed his 2011 IT-40 claiming a refund of \$3,632. The Department denied Taxpayer's claim stating that it fell outside the three year statute of limitations to claim a refund.

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 of individual income tax as long as the claim is filed within three years of the due date of the tax return, or the date of Taxpayer's payment. Taxpayer's 2011 IT-40 was due in 2012 and his account was levied in 2014. Taxpayer did not file a claim for refund until 2019; well outside the three year time period allowed for under IC § 6-8.1-9-1(a) from both the due date and payment date. Therefore, Taxpayer's protest is respectfully denied.

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.

April 21, 2020

Posted: 07/01/2020 by Legislative Services Agency

An [html](#) version of this document.