

DEPARTMENT OF STATE REVENUE

03-20191553R.ODR

**Final Order Denying Refund: 03-20191553R
Withholding Tax
For The Tax 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

Corporation could not provide evidence showing that it filed a refund claim within the three-year statute of limitations, therefore its 2014 claim for refund of Indiana withholding tax was properly denied.

ISSUE

I. Withholding Tax - Statute of Limitations.

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

Taxpayer protests the denial of its refund claim.

STATEMENT OF FACTS

Taxpayer is an Indiana Corporation. In August 2019, the Indiana Department of Revenue ("Department") received a refund request from Taxpayer for withholding tax for the September 2014 tax period. The Department denied Taxpayer's claim for refund because it filed the claim beyond the statutory three-year period required to file a refund claim. Taxpayer protested the denial and the Department scheduled an administrative hearing. Taxpayer attended the hearing telephonically and this Final Order Denying Refund results. Additional facts will be provided as necessary.

I. Withholding Tax - Statute of Limitations.

DISCUSSION

Taxpayer requests a refund of withholding tax paid for September 2014. Taxpayer initially failed to timely file its WH-1 withholding tax form for that period and, in December, the Indiana Department of Revenue ("Department") generated a notice of Proposed Assessment based on the best information available at that time. That Proposed Assessment went unpaid, and a Demand Notice was sent to Taxpayer in March 2015. Eventually, in May 2015, Taxpayer filed a WH-1 for September 2014, showing a balance due but not providing any payment with the return. A warrant was issued to obtain payment in July 2015, and payment was received the following month. Taxpayer requested a refund for this payment in August 2019 and claimed that the request was originally submitted in March 2016. The Department has no record of this refund request being filed before 2019.

"[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 shall be entitled to deference.

The Indiana Code provides guidance on filing a refund claim. 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 [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.

Taxpayer recognizes that its filing occurred more than three years after its date of payment, but asks the Department to rely on the March 2016 date written on the refund request form, which would make the refund

request timely. But the Department has no record of a refund request in March 2016. Moreover, assuming Taxpayer did send a refund claim on March 2016, the Taxpayer had more than a year to confirm its receipt by the Department and did not do so. Without any evidence to the contrary, the Department has no records showing that Taxpayer attempted to claim a refund within the statutory time limit. Thus, the statute of limitations expired as provided under IC § 6-8.1-9-1(a) and Taxpayer is not entitled to a refund.

FINDING

Taxpayer's protest is denied.

May 26, 2020

Posted: 08/26/2020 by Legislative Services Agency
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