

**Memorandum of Decision: 01-20200292**  
**Withholding 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 Memorandum of Decision.

**HOLDING**

Individual filed a claim for refund within the three-year statute of limitations, therefore the Department sustained her 2015 refund claim.

**ISSUE**

**I. Adjusted Gross Income 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 her refund claim.

**STATEMENT OF FACTS**

Taxpayer is an Indiana resident. The Indiana Department of Revenue ("Department") denied Taxpayer's claim for refund because she 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. This Memorandum of Decision results. Additional facts will be provided as necessary.

**I. Adjusted Gross Income Tax - Statute of Limitations.**

**DISCUSSION**

The Department denied Taxpayer's claim for refund stating, "Indiana Code 6-8.1-9-1(a) requires that a claim for refund in excess withholding or estimated payments must be filed within a 3 year period in order to be refunded excess withholding or estimated payments. . . . Your claim requesting the refund was not received before the three-year statute of limitations ended." Taxpayer provided documentation and the Department verified that documentation. Taxpayer filed her original IT-40 with the Department on February 20, 2019. The 2015 due date to file a claim for refund was April 15, 2019. In fact, the Department took action on March 29, 2019 by adjusting the refund amount as Taxpayer had already received a check for the portion of the refund amount.

"[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. . . in 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. . . .

According to documentation verified by the Department, Taxpayer filed her IT-40 on February 20, 2019 which is before the April 15, 2019 deadline. According to IC § 6-8.1-9-1(a) to obtain the refund, a taxpayer must file the claim with the department within three years after the due date of the return. Taxpayer filed her 2015 tax returns

on February 20, 2019. Thus, she timely filed the claim and is entitled to the refund claimed.

**FINDING**

Taxpayer's protest is sustained.

September 29, 2020

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