

**Final Order Denying Refund: 01-20200384R
Indiana Individual Income Tax
For the 2016 Tax Year**

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 determination.

HOLDING

Individual was not entitled to a refund of tax withheld by the employer during 2016. Individual failed to demonstrate that she timely filed the required Indiana Full-Year Resident Return (Form IT-40) reporting the income in order to claim the refund.

ISSUE

I. Indiana Individual Income Tax - Claim for Refund - Statute of Limitations.

Authority: IC § 6-8.1-9-1; [45 IAC 15-9-2](#).

Taxpayer protests the Department's refund denial of individual income tax for the 2016 tax year.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who has been working in Indiana and filing Indiana income tax returns reporting Indiana income since 2000. In August 2020, Taxpayer filed her 2016 Indiana income tax return - Indiana Full-Year Resident Individual Income Tax Return (Form IT-40) - requesting a refund of approximately \$284 tax withheld. The Indiana Department of Revenue ("Department") reviewed and denied the requested refund.

Taxpayer protested the refund denial. Taxpayer requested that the Department make the final determination without conducting an administrative hearing. This Final Order Denying Refund results based on the information submitted by Taxpayer as well as the Department's records. Additional facts will be provided, as necessary.

I. Indiana Individual Income Tax - Claim for Refund - Statute of Limitations.

DISCUSSION

In August 2020, Taxpayer filed her 2016 Indiana income tax return (IT-40), claiming that she was entitled to a refund of tax withheld by her employer during the 2016 year. The Department denied Taxpayer's refund claim on the ground that the refund claim was not timely.

In general, if a taxpayer believes that he or she has overpaid the tax, the taxpayer is required to timely file a claim for a refund with the Department. Specifically, IC § 6-8.1-9-1(a), in relevant part, states:

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. Except as provided in subsections (j) and (k), **in 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.**

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. **The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.**

(**Emphasis added**).

[45 IAC 15-9-2](#) further explains, in relevant part, that:

(b) **The department has no legal method of generating a claim for refund. A claim for refund can only be initiated pursuant to [IC 6-8.1-9-1](#).**

...

(d) When filing a claim for refund with the department the taxpayer's claim shall set forth:

- (1) the amount of refund claimed;
- (2) a sufficiently detailed explanation of the basis of the claim such that the department may determine its correctness;
- (3) the tax period for which the overpayment is claimed; and
- (4) the year and date the overpayment was made.

The claim for refund shall be filed on a form prescribed by the department.

(**Emphasis added**).

Thus, when a taxpayer determines he or she overpaid tax, for example in a situation like this, the taxpayer must file his or her income tax return stating the overpayment as prescribed by the Department in order to claim a refund. IC § 6-8.1-9-1(a); [45 IAC 15-9-2](#). The taxpayer also must clearly state "the amount of the refund," "detailed explanation of the basis of the claim such that the department may determine its correctness," "the tax period for which the overpayment is claimed," and "the year and date of the overpayment." [45 IAC 15-9-2\(d\)](#).

IC § 6-8.1-9-1(b), in relevant part, further states that:

After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the person disagrees with a part of the decision on the claim, the person may file a protest and request a hearing with the department . . . (**Emphasis added**).

In this instance, upon initial review of Taxpayer's 2016 filing, the Department denied Taxpayer's refund claim. The Department, in its denial letter, explained in part, that the refund claim in question was not timely pursuant to IC § 6-8.1-9-1(a). In particular, the letter states the following:

Indiana Code [§] 6-8.1-9-1(a) requires that a claim for refund of excess withholding or estimated payments must be filed within 3 year period in order to be refunded excess withholding or estimated payments. **This 3 year period generally begins on the due date of the tax return that should have been filed for the period in question.** Your claim requesting the refund was not received before the 3 year period had expired. Therefore, your claim . . . has been denied. (**Emphasis added**).

Taxpayer's protest letter states, in relevant part, the following:

I understand my 2016 return was filed after the three-year deadline. I understand I have a responsibility to file my tax return timely, however, there were circumstances where I could not do so . . . I do not believe it is fair that the Department of Revenue deny a refund. I, hereby, contest the denial . . .

Taxpayer seemingly suggested that the three-year statute of limitations should not have run because "there were circumstances where I could not do so." Taxpayer did not reference any legal authority to support the argument that the *circumstances* - according to Taxpayer - shall toll the three (3) year statute of limitations.

Upon review, Taxpayer clearly understood that her 2016 return was due on or before April 18, 2017. Clearly, Taxpayer also understood that there is a three-year statute of limitations to claim a refund. Taxpayer has at least three years to file and claim her 2016 return, but she did not do so. Thus, in the absence of other verifiable supporting documents, the Department is not able to agree that the three-year statute of limitations should not have run.

As mentioned earlier, for Indiana income tax purposes, to obtain the refund, IC § 6-8.1-9-1(a) requires that a taxpayer "must file the claim with the department within three (3) years after the [later] of . . . (1) [t]he due date of the return [or] (2) [t]he date of payment." Taxpayer's employer withheld tax on wages paid to Taxpayer during and throughout 2016 and Taxpayer's income tax return was due on or before April 18, 2017. Thus, the later of the due date for claiming refund for 2016 is three (3) years from April 18, 2017. In other words, Taxpayer was required to

file the return to claim the 2016 refund on or before April 18, 2020. Taxpayer did not file the return on or before April 18, 2020. Taxpayer filed the original IT-40 for 2016 to claim a refund in August 2020. Taxpayer's refund claim thus was untimely.

FINDING

Taxpayer's protest is respectfully denied.

December 15, 2020

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