

Memorandum of Decision Number: 01- 20210001R
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 final determination.

HOLDING

Individual demonstrated that she (1) timely filed a federal extension request with the Internal Revenue Service to extend the statutory due date and (2) timely filed the required Indiana Full-Year Resident Return (Form IT-40) reporting the income in order to claim the refund. As such, Individual was entitled to a refund of tax withheld by the employer during 2016.

ISSUE

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

Authority: IC § 6-8.1-9-1; IC § 6-8.1-6-1; [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 late 1990s. In October 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 \$185 tax withheld plus interest. 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 determination 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

On or about October 15, 2020, Taxpayer filed her original 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).

Additionally, "[i]f the Internal Revenue Service allows a person an extension on the person's federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days." IC § 6-8.1-6-1(c)(1).

[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 timely 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). Specifically, the Department explained:

Indiana Code [§] 6-8.1-9-1(a) requires that a claim for refund of excess withholding or estimated payments must be filed within a 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, to the contrary, claimed that "[h]er 2016 IT-40 was timely filed within the three-year statute of limitations period." Taxpayer stated the following:

Her 2016 return was timely extended when her US Federal Extension was timely e-filed on Monday, April 17, 2017. [Her] 2016 federal and state returns were then filed on October 15, 2020 with proof of mailing within the required [three-year] statute of limitations period.

To support her protest, Taxpayer offered additional documentation, including an electronic acknowledgment of e-filing of the federal extension request.

Upon review, the Department is prepared to agree that Taxpayer timely filed Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return, for 2016 to extend the due date. As such, her original IT-40 for 2016 to claim a refund in October 2020 was timely.

FINDING

Taxpayer's protest is sustained.

February 17, 2021

Posted: 04/28/2021 by Legislative Services Agency
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