

**Memorandum of Decision: 02-20210091-99
Corporate Income Tax
For Tax Years 2007-2015**

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 convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

HOLDING

Corporation's amended Indiana tax returns for tax years 2007 through 2015 were timely filed, thus, the refund requests were not outside the statute of limitations.

ISSUE

I. Corporate 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 argues that its requests for refund were timely filed.

STATEMENT OF FACTS

Taxpayer is an out-of-state company conducting business in Indiana. Taxpayer filed amended 2007, 2008, 2009, 2010, 2011, 2012 and 2013 Indiana corporate income tax returns on March 20, 2018. Taxpayer later amended its 2014 and 2015 Indiana corporate income tax returns on March 8, 2019. The Indiana Department of Revenue ("Department") received Taxpayer's amended corporate returns and denied all refund claims on the basis that they were filed after the expiration of the statute of limitations. Taxpayer protested the denials, and the Department held an administrative hearing. This Memorandum of Decision results. Additional facts will be provided as necessary.

I. Corporate Income Tax - Statute of Limitations.

DISCUSSION

The Department denied Taxpayer's refund requests stating the requests were filed after the three-year statute of limitations had expired, as provided by IC § 6-8.1-9-1. Taxpayer argues that the refund requests were submitted following modifications made by the federal government, therefore the standard three-year statute of limitations does not apply. In support of its position, Taxpayer provided its amended federal corporate tax return, amended state corporate return, Form 4549-A ("Income Tax Discrepancy Adjustments"), Form 4549-B ("Income Tax Examination Changes"), and Form 5701 ("Notice of Proposed Adjustment") for tax years 2007 through 2015. Taxpayer also provided its Advance Pricing Agreement for tax years 2014 through 2021 and its Revised Closing Letter for tax years 2007 through 2013.

As a threshold issue, Taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. "[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).

IC § 6-8.1-9-1(a) affords Taxpayer a statutory right to file a claim for refund. This statute provides, in part:

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.

Therefore, the Department was correct that Taxpayer's amended returns were filed past the standard statute of limitations found under IC § 6-8.1-9-1(a). However, IC § 6-8.1-9-1(j) provides an exception to the general rule, stating in relevant part:

If a taxpayer's federal taxable income, federal adjusted gross income, or federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modifications would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the latest of:

- (1) The date determined under subsection (a);
- (2) The date that is **one hundred eighty (180) days after** the date of the modification by the Internal Revenue Service [. . .]. (**Emphasis added**)

Taxpayer provided a copy of its Advance Pricing Agreement between Taxpayer and the Internal Revenue Service ("IRS") which reflected "the Parties' agreement on the best method for determining arm's-length prices of the Covered Transactions under I.R.C. Section 482, the Treasury Regulations thereunder, and any applicable tax treaties." The Advance Pricing Agreement resulted in an increase in the income of Taxpayer's Canadian affiliate and a decrease in Taxpayer's income. The Agreement provides that it "applies to the taxable years ending December 31, 2014-2021." The Agreement states that it became effective on the date on "which all Parties execute this APA." The APA was finalized on February 7, 2019.

Taxpayer also provided the Revised Closing Letter issued by the IRS on January 29, 2018. The Revised Closing Letter reflected the results of negotiations between Taxpayer, the IRS, and Taxpayer's Canadian affiliate. The Revised Closing Letter confirmed an increase of the income of Taxpayer's Canadian affiliate and a decrease in Taxpayer's income. The Revised Closing Letter provides that it applies to tax years 2007 through 2013.

Under IC § 6-8.1-9-1(j), Taxpayer has one hundred eighty (180) days after the date of modification by the federal government to file an amended return. Taxpayer filed its amended corporate returns for tax years 2007 through 2013 on March 20, 2018, or fifty (50) days after the Revised Closing Letter was issued. Taxpayer filed its amended corporate returns for tax years 2014 and 2015 on March 8, 2019, or twenty-nine (29) days after the Advance Pricing Agreement was fully executed.

Considering the documentation provided by Taxpayer, Taxpayer established that it timely filed its amended corporate returns for tax years 2007 through 2015 and thus timely requested refunds for these tax years pursuant to IC § 6-8.1-9-1(j). The Department will make the necessary adjustments and issue the appropriate refund.

FINDING

Taxpayer's protest is sustained.

June 23, 2022

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