

Memorandum of Decision: 02-20221040
Corporate Income Tax
for the Tax Year 2017

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. 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. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. 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

Business's request for a refund was timely and not outside the statute of limitations. Thus, the Department's denial was incorrect.

ISSUE

I. Corporate Income Tax - Statute of Limitations.

Authority: IC § 6-8.1-9-1; IC § 6-3-4-3; IC § 6-8.1-6-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the denial of refund.

STATEMENT OF FACTS

Taxpayer is an out of state company that is required to file an Indiana tax return. For tax year 2017, Taxpayer timely filed its return. In 2021, Taxpayer discovered there was an error in the original return related to a passthrough withholding calculation. As a result of the error, Taxpayer filed an amended return in August 2021.

Taxpayer requested a refund on the amended return. The Department denied the refund stating the request was outside the statute of limitations. Taxpayer protested the denial, and an administrative hearing was scheduled. Taxpayer failed to appear, and the protest was administratively closed. Taxpayer then requested a rehearing, and a rehearing was held with Taxpayer's representative. This Memorandum of Decision results. Additional facts will be provided as necessary.

I. Corporate Income Tax - Statute of Limitations.

DISCUSSION

Taxpayer protests the Department's denial of its claim for refund of corporate income tax for year 2017. The Department based its decision on its determination that Taxpayer filed its claim past date of statute of limitations found under IC § 6-8.1-9-1. Therefore, the issue is whether Taxpayer's request for a refund was timely filed.

As a threshold issue, a 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 agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation of 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 a taxpayer a statutory right to file 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 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 later of the following:

- (1) **The due date of the return.**
- (2) **The date of payment. (Emphasis added.)**

IC § 6-3-4-3 requires returns to be filed on "the 15th day of the fourth month following the close of the taxable year." If a due date falls on a Saturday, Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the due date is moved to the next business day. IC § 6-8.1-6-2. IC § 6-8.1-6-1(c) states that (1) If 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.

26 USCA § 6801(a) defines a federal extension as:

The Secretary may grant a reasonable extension of time for filing any return, declaration, statement, or other document required by this title or by regulations. Except in the case of taxpayers who are abroad, no such extension shall be for more than 6 months.

In support of this protest, Taxpayer provided a copy of tax returns, information related to the federal extension, and a certified mailing receipt for the Indiana amended return.

IC § 6-8.1-9-1(a) is clear that refund requests must be made within three years of the date of the payment or the date the return is due. The return for 2017 was due on April 15, 2018. Three years from this date was April 15, 2021. However, Taxpayer provided documentation establishing that it requested and was granted a federal extension. With the federal extension, Taxpayer's federal return was due October 15, 2018. Per IC § 6-8.1-6-1(c), Indiana allows an additional thirty (30) days after the federal extension to file a return. Taxpayer's Indiana return was due on November 14, 2018. Pursuant to IC § 6-8.1-9-1(a), Taxpayer then had three years after the date the return was due to request a refund, which was November 14, 2021. November 14 was a Sunday, so the date of expiration of the statute of limitations was Monday, November 15, 2021.

Taxpayer provided documentation in the form of a certified mailing receipt showing the amended return was mailed on August 12, 2021. The return was subsequently received by the Department, which was within the cutoff for the three-year statute of limitations on November 15, 2021. Therefore, Taxpayer did file within the extended period allowed within the statute of limitations as provided under IC § 6-8.1-6-1(c).

FINDING

Taxpayer's protest is sustained.

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