

DEPARTMENT OF STATE REVENUE

01-20221650.ODR

**Final Order Denying Refund: 01-20221650
Individual Income Tax
For the Year 2017**

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 Order Denying Refund.

HOLDING

The Department was unable to agree that Individual was entitled to a refund of 2017 Indiana income tax; Individual's 2017 return was untimely filed, and the refund was barred by the three-year statute of limitations.

ISSUE

I. Indiana Individual Income Tax - Timeliness.

Authority: [IC 6-3-2-1](#); [IC 6-8.1-9-1](#); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010).

Taxpayer argues that she is entitled to a refund of 2017 income tax as called for in her 2017 tax return.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who files Indiana income tax returns. Taxpayer filed a 2017 Indiana return. That return called for a refund of \$336. The Indiana Department of Revenue ("Department") reviewed the return. Following that review, the Department denied Taxpayer the requested refund. In a letter dated April 19, 2022, the Department explained the reason for its decision.

Indiana Code § 6-8.1-9-1 states that in order to receive a refund, a claim must be filed within three years after the due date of the return or date of payment, whichever is later. Your request and claim for a refund were filed outside of the time frame and thus must be denied for the following filing period: December 31, 2017.

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayer explained the basis for her protest. This Final Order Denying Refund results.

I. Indiana Individual Income Tax - Timeliness.

DISCUSS

The issue is whether Taxpayer has established that she is entitled to a refund of income tax withheld on her behalf by her employer and that the Department's decision to the contrary was wrong.

In order to meet the statutory burden of establishing the correctness of his or her position, each taxpayer challenging an assessment or denial of a refund is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes a tax "upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." [IC 6-3-2-1\(b\)](#). Taxpayer's employer withheld income tax during the year 2017.

Taxpayer filed her 2017 Indiana return which was dated March 2022. Taxpayer explained that she filed the return when she did at the apparent advice or direction of her tax preparer. Taxpayer explains:

When I filed my taxes last year in 2021, I had four years to file, 2017-2020. The tax preparer [] told me I had

time to file my 2017 & 2018 tax returns. I trusted what she said because she's the professional She stated it was important to file the two most recent years.

. . . .

[I]f I knew the importance of filing my 2017 tax return in 2021 I would have done so. The tax preparer was extremely costly, and I could only afford to file the most recent years.

Unfortunately, Taxpayer's refund is barred by the three-year statute of limitations as provided for in [IC 6-8.1-9-1\(a\)](#):

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), (k), and (l), 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.

Taxpayer seeks a refund of taxes withheld by her employer. Therefore [IC 6-8.1-9-1\(a\)\(1\)](#) governs the issue. The 2017 return was due Tuesday April 18, 2018. Three years from that date is April 18, 2021. Because Taxpayer's return was dated March 30, 2022, and submitted to the Department afterwards, Taxpayer's claim is barred by law under [IC 6-8.1-9-1](#).

The three-year limit binds both Taxpayer and the Department to the time limits set out in law, and the Department is required to deny Taxpayer's protest.

FINDING

Taxpayer's protest is respectfully denied.

December 29, 2022

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