

Final Order Denying Refund: 03-20231246
Withholding Tax
For 2018

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HOLDING

Business was not entitled to a refund of payment because it failed to demonstrate that it timely filed the claim for refund.

ISSUE

I. Withholding 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 the payment it paid during 2018.

STATEMENT OF FACTS

Taxpayer is a company doing business in Indiana. Taxpayer employs several Indiana residents to conduct its business. Taxpayer withholds income tax on wages, which it pays to those employees, and remits the tax to the Indiana Department of Revenue ("Department"), as statutorily required.

In 2022, Taxpayer requested a refund of an overpayment it remitted to the Department on behalf of its employees in 2018. The Department reviewed and denied the request because the request was untimely.

Taxpayer protested the refund denial, stating the following:

This document serves as our formal request for protest of denied withholding refund from December 31, 2018.

Your consideration to override the [three-year] time frame limit is greatly appreciated. Due to a change in third party payroll processing companies, the withholding in 2018 was paid in duplication by both companies.

Taxpayer elected the option of "Final determination without a hearing." This Final Order Denying Refund results.

I. Withholding Tax - Claim for Refund - Statute of Limitations.

DISCUSSION

In 2022, Taxpayer claimed a refund of withholding tax it remitted in 2018. The Department denied Taxpayer's refund claim on the ground that the refund claim was not timely.

In general, if a taxpayer believes that it has overpaid the tax, the taxpayer is required to timely file a claim for a refund with the Department under [IC 6-8.1-9-1](#). [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 it overpaid tax, for example in a situation like this, the taxpayer must file a refund request form stating the overpayment as prescribed by the Department to claim a refund within the three years of (1) the due date of the return or (2) the date of payment. [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\(d\)](#).

In this instance, in 2022, Taxpayer requested the refund of tax paid in 2018. Upon initial review of Taxpayer's filing, the Department denied Taxpayer's request. The Department explained, in part, the following:

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, 2018. . . .

Taxpayer in this instance did not provide any verifiable documents to substantiate its protest concerning the application of the three-year statute of limitations. Rather, Taxpayer simply stated that the tax "was paid in duplication by both companies." Given the totality of the circumstances, in the absence of other verifiable supporting documents, Taxpayer's refund claim thus was untimely pursuant to [IC 6-8.1-9-1\(a\)](#).

FINDING

Taxpayer's protest is respectfully denied.

April 24, 2023

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