

**Supplemental Memorandum of Decision: 01-20210101
Individual Income Tax
For the 2017 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 Supplemental Memorandum of Decision.

HOLDING

Taxpayer timely filed an amended return and provided documentation demonstrating the correct amount of tax credits, resulting in an additional refund due.

ISSUE

I. Tax Administration - Statute of Limitations.

Authority: [IC 6-8.1-9-1](#); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); Income Tax Information Bulletin 98 (November 2016); Black's Law Dictionary (11th ed. 2019).

Taxpayer protests DOR's position that his amended return was untimely filed.

II. Income Tax - Indiana CollegeChoice 529 Education Savings Plan.

Authority: [IC 6-3-3-12](#); Income Tax Information Bulletin 98 (November 2016).

Taxpayer protests the denial of his refund claim due to offset credits for qualified education savings.

STATEMENT OF FACTS

Taxpayer is an individual that filed an Individual Income Tax Return IT-40 with the Indiana Department of Revenue ("DOR") for the 2017 tax year. This originally filed IT-40 indicated that Taxpayer was due a refund. On June 29, 2018, DOR processed Taxpayer's return, eliminated offset credits for education savings, and issued Taxpayer a reduced Indiana refund. On June 1, 2021, Taxpayer filed an amended return, stating that the adjustment made by the Department in 2018 was in error. Taxpayer requested a refund for the difference between the refund originally issued by the Department in 2018 and the amount initially requested on his IT-40. DOR denied this request, stating that the amended return was filed outside of the three-year statute of limitations. Taxpayer timely protested this denial, and an administrative hearing was held. This supplemental memorandum of decision results. Additional facts will be provided as necessary.

I. Tax Administration - Statute of Limitations.

DISCUSSION

Taxpayer argues that his amended return requesting a refund was filed within three years of DOR processing its original payment and issuing the reduced refund, and thus is a timely request for a refund under [IC 6-8.1-9-1](#).

As a threshold issue, "when [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). Thus, all interpretations of Indiana tax law contained within this decision are entitled to deference.

[IC 6-8.1-9-1](#)(a) provides a limitation on requesting a refund as follows:

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 . . . [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 . . .

On its initial review of Taxpayer's amended return, DOR found that the filing was untimely because the amendment was filed more than three years after the initial return was due. However, DOR did not process the initial return, make modification, or issue a partial refund until June 2018. A payment is the "[p]erformance of an obligation by the delivery of money . . . accepted in partial or full discharge of the obligation." Black's Law Dictionary 1363 (11th ed. 2019). Therefore, DOR's modification of Taxpayer's initial IT-40 and issuance of a partial refund is the time at which the payment was made. For the narrow purpose of tolling the statute of limitations, this modification and reduced refund is analogous to the issuance and concurrent payment of a proposed assessment. Because payment did not occur until the refund was processed in June, Taxpayer's June 1, 2021, amended return filing was within the three-year statute of limitations.

FINDING

Taxpayer is sustained.

II. Income Tax - Indiana CollegeChoice 529 Education Savings Plan.

Taxpayer's substantive argument is that his offset credits should not have been adjusted by DOR. The offset credit claimed was for two Indiana CollegeChoice 529 education savings accounts, but the original filing incorrectly identified the accounts by transposing account numbers. The amended returns included both year-end account statements and the corrected account numbers.

[IC 6-3-3-12](#) explains that Indiana CollegeChoice education savings plans can qualify for tax credits. Income Tax Information Bulletin 98 (November 2016) [20161228-IR-045160563NRA](#), provides the calculation for the amount of tax credit:

The amount of the credit is the lesser of the following:

- 20[percent] of the amount of all contributions the taxpayer makes to an account(s) of the Indiana CollegeChoice 529 Education Savings Plan during the taxable year;
- the amount of the taxpayer's adjusted gross income tax liability for the taxable year reduced by the amount of credits allowed under [IC 6-3-1](#) through [IC 6-3-7](#); or
- \$1,000.

Documentation provided by Taxpayer shows that the amended return correctly claimed the lesser of these three amounts. Taxpayer has sufficiently demonstrated that he qualified for offset credits due to his contributions to these accounts. DOR will issue a refund to Taxpayer for the requested amount.

FINDING

Taxpayer is sustained.

SUMMARY

Taxpayer timely filed an amended return which demonstrated that he qualified for tax credit for contributions to a qualifying 529 plan. Taxpayer's protest is sustained in full, and a refund will be issued.

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