

Final Order Denying Refund: 03-20221734
Withholding 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 Final Order Denying Refund.

HOLDING

Company did not file its refund request within the three-year statute of limitations. The Department was correct in denying the refund.

ISSUE

I. Withholding Tax - Statute of Limitations.

Authority: [IC 6-8.1-9-1](#); *Dep't. 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 Indiana company that is now closed. Taxpayer filed its 2017 withholding tax return and had an overpayment. Taxpayer filed a claim for refund for the 2017 tax year in June 2022.

The Indiana Department of Revenue ("Department") denied the claim for refund of 2017 Indiana withholding taxes because it was filed outside the three-year statute of limitations. Taxpayer requested a determination without a hearing. This Final Order Denying Refund results. Additional facts will be provided as necessary.

I. Withholding Tax - Statute of Limitations.

DISCUSSION

The Department denied Taxpayer's request for refund of withholding taxes paid for 2017 stating the request was outside the three-year statute of limitations under [IC 6-8.1-9-1](#). When Taxpayer filed its 2017 withholding taxes, there was an overage which Taxpayer believed would be applied to the next quarter. Taxpayer further states that the statute of limitations should not apply as it was not aware of the overpayment. Therefore, Taxpayer argues that it is entitled to a refund. Taxpayer protested the denial of refund.

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 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 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 latter of the following:

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

The Department's records show that Taxpayer timely filed its initial withholding tax return for tax year 2017 on January 30, 2018. This means its claim for refund needed to be filed on or before April 15, 2021. Taxpayer submitted the 2017 refund claim on June 10, 2022. This is beyond the statutorily allowed statute of limitations as required by [IC 6-8.1-9-1](#)(a). While the Department understands that Taxpayer was unaware of the amount until

after the statute of limitations had passed, Taxpayer has referred to no statute, regulation, or court case which would allow extension of the statute of limitations in such circumstances. Therefore, Department was correct when it denied the claim refund.

FINDING

Taxpayer's protest is denied.

February 13, 2023

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