

## DEPARTMENT OF STATE REVENUE

01-20231336.ODR

**Final Order Denying Refund: 01-20231336  
Indiana Individual Income Tax  
For the Year 2013**

**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 disagreed with Indiana Residents that they timely filed a refund request within three years of the date the amended 2013 return was filed or within three years of the date Residents made any payments.

**ISSUE****I. Individual Income Tax - Refund.**

**Authority:** [IC 6-8.1-9-1](#); *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *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).

Taxpayers argue that they are entitled to a refund of Indiana income tax because the Department was wrong when it found that their refund request was untimely.

**STATEMENT OF FACTS**

Taxpayers are Indiana residents who routinely file Indiana individual income tax returns. Taxpayers filed an amended 2013 Indiana tax return. That return was submitted September 2022. The original 2013 return was due on April 15, 2014. Taxpayers concluded that the amended return would result in a refund of approximately \$7,200. The Indiana Department of Revenue ("Department") reviewed the return and denied the refund. In a letter dated September 2022, the Department explained why the refund was being denied as follows:

Indiana Code . . . 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 period: December 31, 2013.

Taxpayers disagreed with the Department's decision and submitted a protest to that effect. In their written protest, Taxpayers asked for a "[f]inal determination without a hearing." This Final Order Denying Refund results.

**I. Individual Income Tax - Refund.****DISCUSSION**

The issue is whether Taxpayers have established that they are entitled to a refund of 2013 individual income tax because the Department was wrong when it determined that the amended return was untimely. The Department notes that the only issue addressed in this decision is the question of "timeliness" because that is the reason the Department denied the refund.

The amended return indicates that it was being filed in order "to correctly report contributions to [a] retirement plan and to deduct real estate taxes." Once done, Taxpayers believed that the return would result in a refund of tax.

Taxpayers explained why they concluded that the refund was timely.

[T]he denial was based on the amended return seeking a refund not being filed with three years of the due date of return or the date of the return or the date of payment. While the return was due originally due in 2014, we did not file it until October or November of 2019. Additionally, [we] believe any payment made for 2013 was made in January of 2020. Thus, we are within the three-year window for making the claim for

refund.

Where, as here, any taxpayer is challenging the taxability of Indiana income, the taxpayer is required to provide documentation explaining and supporting its challenge. 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). When an agency is charged with enforcing a statute, the jurisprudence defers to the agency's reasonable interpretation of that statute "over an equally reasonable interpretation by another party." *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

In this instance, the issue turns on whether the Department's decision was wrong because the refund was timely submitted. [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.**

Of course, the return was originally due in April 2014. The return itself is not dated but the Department's records indicate that the return was first received September 2022. That amended return constitutes Taxpayers' refund request. The amended return in effect constitutes the "refund" request but misses the mark because it was not submitted within three years of the date the 2013 return was due.

Despite this, Taxpayers maintain that the refund was timely filed because payments were made within three years of "[t]he date of payment." [IC 6-8.1-9-1\(a\)\(2\)](#). Taxpayers explained that any payments attributable to the amended original return were made in January of 2020. Unfortunately, the Department's records do not support Taxpayers' explanation. The account reflects various credits, transfers, fees, penalty abatements, sheriff fees, and write-offs but nothing reflects a payment made within three-years of the date the \$7,200 refund was requested. In addition, Taxpayers have not provided anything documenting that they made payments during the three-year period.

The Department is unable to agree with Taxpayers that the refund request was timely filed.

#### FINDING

Taxpayers' protest is respectfully denied.

May 22, 2023

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