

Memorandum of Decision: 02-20231283
Corporate Income Tax
For The Year 2012

NOTICE: [IC 4-22-7-7](#) permits the publication of this document in the Indiana Register. 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. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

HOLDING

Taxpayer provided documentation showing its refund request was timely and not outside the statute of limitations.

ISSUE

I. Corporate Income Tax - Notification of Federal Modification.

Authority: [IC 6-3-4-6](#); [IC 6-8.1-9-1](#); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Smith v. Indiana Dept. of State Revenue*, 122 N.E.2d 484 (Ind. Tax Ct. 2019)

Taxpayer protests the denial of refund.

STATEMENT OF FACTS

Taxpayer is an out-of-state company operating in Indiana and other states. In February 2017, Taxpayer received notice of a federal deficiency related to tax years 2012 and 2013. Taxpayer acknowledged the deficiency and submitted payment at the federal level. Taxpayer later filed amended federal returns for the affected tax years. In July 2022, Taxpayer filed an amended Indiana Form IT-20X for tax year 2012, which calculated a refund of approximately \$30,000.

The Indiana Department of Revenue ("Department") denied the refund as outside the three-year statute of limitations provided in [IC 6-8.1-9-1](#). Taxpayer protested the denial and requested resolution without a hearing. The Memorandum of Decision results. Additional facts will be provided as necessary.

I. Corporate Income Tax - Notice of Federal Modification.

DISCUSSION

The Department determined that Taxpayer was not entitled to a refund because the request was outside of the statute of limitations. Taxpayer protested the denial and argued that its amended return was timely filed, thus, Taxpayer was entitled to the requested 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 a 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 a refund with the department.

This statute also allows a taxpayer to file a claim for refund after a modification by the Internal Revenue Service of the taxpayer's federal taxable income, federal adjusted gross income, or federal income tax liability, and the modification results in a reduction of tax legally due. [IC 6-8.1-9-1](#)(j)(2)(A). Such refund requests must be made within 180 days after the date of the modification. *Id.*

Indiana statutes provide guidance on when a modification occurs and when a modification is final. [IC 6-3-4-6\(c\)](#) states, in part, a modification occurs on the date on which a:

- (1) taxpayer files an amended federal return;
- (2) final determination is made concerning an assessment of a deficiency;
- (3) final determination is made concerning a claim for refund;
- (4) taxpayer waives the restrictions on assessment and collection of all, or any part, of an underpayment of federal income tax by signing a federal Form 870, or any other Form prescribed by the Internal Revenue Services for that purpose.

Determining which federal document provides the finality required under Indiana Code 6-3-4-6(c) is a fact sensitive inquiry. See *Smith v. Indiana Dept. of State Revenue*, 122 N.E.2d 484, 488 (Ind. Tax Ct. 2019).

[IC 6-3-4-6\(d\)](#) further states:

For the purposes of subsection (c)(2) through (c)(6), a final determination means an action or decision by a taxpayer, the Internal Revenue Service (including the Appeals Division), the United State Tax Court, or any other United States federal court concerning any disputed tax issue that:

- (1) is final and conclusive; and
- (2) cannot be reopened or appealed by a taxpayer or the Internal Revenue Service as a matter of law.

Finally, [IC 6-3-4-6\(e\)](#) reaffirms that if the federal modification results in a change in the taxpayer's federal or Indiana adjusted gross income, the taxpayer shall file an Indiana amended return within 180 days after the modification is made (when the modification is made after December 31, 2010).

Taxpayer explained that it was notified of a federal deficiency on February 24, 2017, related to tax years 2012 and 2013. Taxpayer later amended its federal returns twice and executed Form 4089-B in March 2017. Taxpayer's federal returns were subject to additional federal review and finalized, in part, on January 21, 2022. Taxpayer explained that the finalized issues were related to a federal partnership audit and an executed federal Form 870-PT. Unrelated issues are currently being litigated in federal court.

Taxpayer's return for tax year 2012 was subject to a federal modification. The related modification was finalized on January 21, 2022. Pursuant to [IC 6-3-4-6\(d\)](#), an amended Indiana tax return was due 180 days later or by July 20, 2022. Taxpayer filed its amended Indiana return on July 19, 2022, a day prior to the 180-day deadline. This was within the required timeframe and not outside the statute of limitations.

The Department notes that this Memorandum of Decision only addresses the issue of timeliness. The substantive issue of whether the amended Indiana return accurately reflects any underlying liability and whether Taxpayer is entitled to a refund are not at issue here and not addressed with this decision. As discussed, Taxpayer's amended return was timely filed. Further review by the Department will determine whether Taxpayer is entitled to a refund for tax year 2012.

FINDING

Taxpayer's protest is sustained.

May 16, 2023

Posted: 07/26/2023 by Legislative Services Agency
An [html](#) version of this document.