

Final Order Denying Refund: 03-20231281
Withholding Tax
For 2017 Year

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HOLDING

Business was not entitled to a refund 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 refund denial concerning the tax it withheld and remitted in 2017.

STATEMENT OF FACTS

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

In 2022, Taxpayer requested a refund of the tax it remitted to the Department during 2017. The Department reviewed and denied the request because the request was untimely.

Taxpayer protested the refund denial, stating the following:

I am writing to protest the denial of our claim for refund of an overpayment of State payroll withholding [] for the filing period of December 31, 2017.

Our basis for this protest is that the claim for refund was requested [] on August 29, 2022, as soon as it was known the overpayment [] existed.

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 requested a refund of withholding tax, which it remitted in 2017. The Department denied Taxpayer's refund 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, Taxpayer requested the refund of tax it withheld and remitted in 2017. Upon initial review of Taxpayer's filing, the Department denied Taxpayer's request. The Department explained, in part:

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, 2017. . . .

Taxpayer in this instance did not provide any verifiable documents to substantiate that its refund request was timely. Taxpayer believes that it was entitled to the refund because it requested the refund "as soon as it was known the overpayment [] existed." But Taxpayer did not reference any statutory authority to support its protest concerning the application of the three-year statute of limitations. Taxpayer merely asserted that it "is a small business and, unfortunately, has experienced some turnover of key accounting personnel over the last few years, and a change in payroll providers/systems, and was never made aware that this overpayment"

As noted above, the Department has "no legal method of generating a claim for refund." [45 IAC 15-9-2](#). As an agency in charge to enforce the Indiana law, the Department is bound by the statutory requirements under [IC 6-8.1-9-1](#) and [45 IAC 15-9-2](#). Therefore, given the totality of the circumstances, in the absence of other verifiable supporting documents and legal authority, the Department must deny Taxpayer's refund claim because the claim was untimely.

FINDING

Taxpayer's protest is respectfully denied.

May 19, 2023

Posted: 07/26/2023 by Legislative Services Agency
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