

Memorandum of Decision: 02-20221466; 02-20221467
Corporate Income Tax
For The Years 2011 and 2012

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HOLDING

Taxpayer provided documentation showing its refund requests were 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 refunds.

STATEMENT OF FACTS

Taxpayer is an out-of-state company operating in Indiana and other states. Taxpayer was notified of deficiencies at the federal level related to tax years 2011 and 2012. In May 2019, the federal adjustments were finalized. In August 2019, Taxpayer filed amended Indiana corporate income tax returns for the affected tax years. The amended returns calculated refunds due of approximately \$800,000 for tax year 2011 and approximately \$1.4 million for tax year 2012.

The Indiana Department of Revenue ("Department") denied the refunds 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 refunds because the requests were outside of the statute of limitations. Taxpayer protested the denials and argued that its amended returns were timely filed, thus, Taxpayer was entitled to the requested refunds.

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 federal deficiencies related to tax years 2011 and 2012. In late June 2018, Taxpayer executed Federal Form 870 ("Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment"). Taxpayer later amended its federal returns, which were subject to additional federal review. Taxpayer's federal returns were finalized on May 9, 2019.

Taxpayer's returns for tax years 2011 and 2012 were subject to federal modifications. The related modifications were finalized on May 9, 2019. Pursuant to [IC 6-3-4-6\(d\)](#), an amended Indiana tax return was due 180 days later or by November 5, 2019. Taxpayer filed its amended Indiana return on August 14, 2019, well before 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 returns accurately reflect any underlying liabilities and whether Taxpayer is entitled to refunds is not at issue here and not addressed with this decision. As discussed, Taxpayer's amended returns were timely filed. Further review by the Department may determine whether Taxpayer is entitled to refunds for tax years 2011 and 2012.

FINDING

Taxpayer's protest is sustained.

June 8, 2023

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