

Letter of Findings: 02-20221085
Corporate Income Tax
For Tax Year 2015

NOTICE: [IC 6-8.1-3-3.5](#) and [IC 4-22-7-7](#) require the publication of this document in the Indiana Register. This document provides the general public with information about the Indiana Department of Revenue's (the "Department") 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Letter of Findings.

HOLDING

The Department erred in hiring a third-party collection agency to levy funds from Taxpayer's account. Documentation provided by Taxpayer shows all monies levied should have been refunded.

ISSUE

I. Corporate Income Tax - Refund.

Authority: [IC 6-8.1-9-1](#); *Dept. of State Revenue v Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests a refund denial.

STATEMENT OF FACTS

Taxpayer is an out-of-state company with operations in Indiana. In May 2019, the Indiana Department of Revenue ("Department") issued a Notice of Proposed Assessment ("NOPA") to Taxpayer related to tax year 2015. Eventually, the Department's collection agency levied Taxpayer's bank account for the assessed amount plus interest and collection fees. The Department later refunded most of the levied funds; however, the entire amount collected was not refunded. In May 2021, Taxpayer protested the denied refund of the remaining amount. This is the only amount at issue in this protest. An administrative hearing was held. This Memorandum of Decision results. Additional facts will be provided as necessary.

I. Corporate Income Tax - Refund.

DISCUSSION

The Department determined that Taxpayer owed additional corporate income tax for tax year 2015 and issued a proposed assessment for the additional tax. When the Department did not receive payment or any other contact from Taxpayer regarding the proposed assessment, the department issued a demand notice and then a tax warrant. At that point, the Department also hired a third-party collection agency to collect the base tax plus interest and associated fees, including a collection fee for the collection agency. The collection agency levied Taxpayer's bank account and collected for all assessed amounts. Taxpayer filed a claim for refund of the collected amounts, and the Department refunded the base tax itself, but not the related fees. Taxpayer now protests that it is entitled to a refund of the remaining amounts which were collected from its account.

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 of 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.

As part of the protest process, Taxpayer was able to establish that it did timely contact the Department once it

received notice of the proposed assessment. Since Taxpayer contacted the Department to dispute the underlying tax assessment in a timely manner, the Department should have stopped the billing process and not hired the collection agency. Thus, the collection fees should not have been incurred by Taxpayer. The collection fees and associated fees will be refunded to Taxpayer.

FINDING

Taxpayer's protest is sustained.

August 18, 2023

Finding Replaces: New

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