

## DEPARTMENT OF STATE REVENUE

03-20221009.ODR

**Order Denying Refund: 03-20221009**  
**Withholding Tax**  
**For the Tax Period Ending December 2017**

**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 Order Denying Refund.

**HOLDING**

Taxpayer's refund claim is barred due to the statute of limitations.

**ISSUE**

**I. Withholding Tax - Statute of Limitations.**

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

Taxpayer asks the Department to reconsider its refund denial for the tax period ending December 2017.

**STATEMENT OF FACTS**

Taxpayer is a professional corporation doing business in Indiana. In September 2021, Taxpayer requested a refund for withholding tax paid in the tax period ending December 2017. On October 8, 2021, the Indiana Department of Revenue ("Department") sent a denial letter, explaining that this refund claim was untimely and must be denied by law. Taxpayer protested this denial and waived its right to an administrative hearing. This Order Denying Refund therefore results from a review of all materials filed with the protest. Additional facts will be provided as necessary.

**I. Withholding Tax - Statute of Limitations.**

**DISCUSSION**

Taxpayer protests the refund denial, claiming that the actual withholding tax liability was less than the amount paid and thus a refund is due.

"[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). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

[IC 6-8.1-9-1](#)(a) provides a limitation on requesting a refund as follows:

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 . . . [I]n 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 . . . .

Taxpayer did not provide any evidence that its request for a refund was within the time allowed under the statute of limitations. Instead, the Taxpayer states that it was unaware of the overpayment until after the statute of limitations. Both the Department and taxpayers are time-limited by statute from modifying tax returns under a variety of circumstances. A lack of knowledge about an underpayment or overpayment does not nullify those limits.

Because the Taxpayer requested a refund more than three years after the due date of the return and the date of payment, the statute of limitations bars Taxpayer's request for refund. The Department correctly denied Taxpayer's refund claim.

**FINDING**

Taxpayer's protest is respectfully denied.

September 29, 2023

*Finding Replaces: New*

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