

Final Order Denying Refund: 03-20231734
Withholding Tax
For The Tax Year 2019

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 Final Order Denying Refund.

HOLDING

Business was not entitled to a refund of withholding tax because the request was made outside of the statute of limitations.

ISSUE

I. Withholding Tax - Refund.

Authority: [IC 6-3-4-8](#); [IC 6-8.1-9-1](#); [45 IAC 3.1-1-97](#).

Taxpayer protests the refund denial of withholding tax.

STATEMENT OF FACTS

Taxpayer is an Indiana-based nonprofit organization. On February 1, 2023, Taxpayer submitted an overpayment refund request via INTIME. The refund request was related to an overpayment of withholding taxes for tax year 2019. The Indiana Department of Revenue ("Department") denied the refund and stated the request was outside the statute of limitations. Taxpayer protested, and an administrative hearing was held. This Final Order Denying Refund results. Additional facts will be provided as necessary.

I. Withholding Tax - Refund.

DISCUSSION

The Department determined that Taxpayer was not entitled to a refund because the refund request was outside of the three-year statute of limitations outlined in [IC 6-8.1-9-1](#).

[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. 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.

[IC 6-3-4-8](#)(a) provides that employers must "withhold, collect, and pay over income tax on wages paid by such employer to such employee, shall, at the time of payment of such wages, deduct and retain therefrom the amount prescribed in withholding instructions issued by the department." [45 IAC 3.1-1-97](#) states that employers must "withhold Federal taxes pursuant to the Internal Revenue Code," and are also "required to withhold from employees' wages Adjusted Gross and County Adjusted Gross Income Tax." [IC 6-3-4-8](#)(a)(1) specifically provides that the employer is "liable to the state of Indiana for the payment of the tax required to be deducted and withheld."

During the protest process, Taxpayer provided an explanation of events along with additional documentation which showed both state and county withholding taxes collected on behalf of its employees for tax year 2019.

Taxpayer filed monthly Form WH-1 withholding tax returns pursuant to the requirements of [IC 6-3-4-8](#)(b). Because Taxpayer filed monthly withholding tax returns, Taxpayer was also required to file Form WH-3, the

annual reconciliation form, no later than thirty-one days after the end of the calendar year. [IC 6-3-4-8\(e\)](#). Taxpayer filed Form WH-3 on January 31, 2020. Three years from the due date of filing Form WH-3 was January 31, 2023. Taxpayer filed its refund request on February 1, 2023. This was one day beyond the statute of limitations deadline.

Additionally, the Department reviewed Taxpayer's account as part of the protest. The Department discovered that Taxpayer incorrectly completed Form WH-3 for tax year 2019. The submitted Form WH-3 showed no county withholding taxes collected. However, documentation provided by Taxpayer as part of the protest showed that county withholding taxes were withheld. This fact is important because it was this error that created what appeared to be an overpayment on Taxpayer's withholding account. Taxpayer believed, and subsequently requested, a refund of approximately \$3,400 in withholding taxes. Comparison of the documentation provided with Taxpayer's withholding account shows an overpayment of approximately \$50 for tax year 2019. As previously mentioned, because Taxpayer's refund request was outside the statute of limitations, the refund must be denied.

FINDING

Taxpayer's protest is denied.

October 17, 2023

Finding Replaces: New

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