

DEPARTMENT OF STATE REVENUE

01-20231381.MOD

**Memorandum of Decision: 01-20231381
Indiana Individual Income Tax
For the Year 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 Memorandum of Decision.

HOLDING

Individual was entitled to a refund of Indiana individual income tax because the refund was filed within the three-year statute of limitations and because Individual was entitled to the relief provided under the IRS's Hurricane IDA relief program.

ISSUE**I. Individual Income Tax Refund - Statute of Limitations.**

Authority: [IC 6-8.1-1-4](#); [IC 6-8.1-6-1](#); [IC 6-8.1-9-1](#); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); [45 IAC 15-9-2](#); *Hurricane Ida tax relief extended to February 15 for part or all of six qualifying states*; *IR-2023-159*, <https://content.govdelivery.com/accounts/USIRS/bulletins/36dac73> (Last visited November 4, 2023).

Taxpayer argues that the Department of Revenue made a mistake when it denied Taxpayer a refund of individual income tax on the grounds that the refund request was submitted outside the statute of limitations.

STATEMENT OF FACTS

Taxpayer is an individual who files Indiana income tax returns. Taxpayer submitted an "Indiana Part-Year or Full-Time Nonresident Individual Income Tax Return" (IT-40PNR) for the year 2017.

On that return, Taxpayer claimed a refund of approximately \$5,000. The return itself is undated but the envelope in which the return was filed is postmarked February 15, 2022.

The Indiana Department of Revenue ("Department") reviewed the return and found that the refund request was untimely. In a letter dated October 2022, the Department explained why the refund was denied.

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 the time frame and thus must be denied for the following period: December 31, 2017.

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. An administrative hearing was scheduled in order to allow Taxpayer's representative an opportunity to explain the basis for the protest. This Memorandum of Decision results.

I. Individual Income Tax Refund - Statute of Limitations.**DISCUSSION**

The issue is whether Taxpayer has established that he is entitled to a refund of 2017 Indiana individual income tax because the refund was requested within the statute of limitations period. The question turns on whether Taxpayer conclusively demonstrated that he timely submitted his 2017 return because Taxpayer qualified for the IRS's Hurricane IDA relief provisions.

Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010). When an agency is charged with enforcing a statute, the jurisprudence defers to the agency's reasonable interpretation of that statute "over an equally reasonable interpretation by another party." *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

The Department's analysis of the original refund request and the analysis contained within this administrative decision are entitled to deference.

At the outset, the Department emphasizes that there are three parties to this issue: individual Taxpayer; Taxpayer's tax preparation business; and the Department.

The Department generally "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](#)." [45 IAC 15-9-2](#)(b) (**Emphasis added**). [IC 6-8.1-9-1](#)(a), in 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.

...

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**).

[IC 6-8.1-6-1](#)(c)(1), in relevant part, offers:

If the Internal Revenue Service allows a person an extension on the person's federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days.

[IC 6-8.1-1-4](#) further provides:

"Due date" means the last date on which a particular act, such as filing a return or making a payment, may be performed and still be on time. If an extension of time is allowed for performing a particular act, the "due date" is the last day of the extension period.

In other words, Indiana "piggybacks" IRS provisions allowing for filing extensions.

Thus, when a taxpayer determines that it overpaid income tax, the taxpayer must timely file an Indiana income tax return or timely amend its income tax returns, stating the overpayment as prescribed by the Department in order to claim a refund. Such filing generally must comply with the three-year statute of limitations, as statutorily required. When the taxpayer properly requests and obtains an extension of due date to file its original return, the three-year statute of limitations applies accordingly.

Taxpayer's 2017 return was due April 17, 2018. The return was submitted February 15, 2022, which is three years, nine months, and twenty-nine days following the original April 17, 2018, due date.

On its face, the refund is untimely. However, Taxpayer explains that its request falls under the Internal Revenue Service's Hurricane IDA relief program. Taxpayer's representative explains:

The [T]axpayer is protected under the . . . Hurricane IDA relief program as our office, which is located in Middlesex County, NJ was within the affected area. Our understanding is that the State of Indiana adopted the IRS's Hurricane IDA tax relieve provision. Therefore, the [T]axpayer was granted filing relief until February 15, 2022. The tax return was postmarked certified mail on February 15, 2022.

Here is the IRS's informal description of the IDA relief program.

Victims of Hurricane Ida in six states now have until February 15, 2022, extended from January 3, to file various individual and business tax returns and make tax payments, the Internal Revenue Service announced today.

The updated relief covers the entire states of Louisiana and Mississippi, as well as parts of New York, New Jersey, Connecticut and Pennsylvania. The current list of eligible localities is always available on the Around the Nation section of the disaster relief page on IRS.gov.

The updated relief postpones various tax filing and payment deadlines that occurred starting on dates that vary by state:

- August 26, 2021 for Louisiana,
- August 28, 2021 for Mississippi,
- August 31, 2021 for Pennsylvania and
- September 1, 2021 for New York, New Jersey and Connecticut.

As a result, affected individuals and businesses will have until February 15, 2022, to file returns and pay any taxes that were originally due during this period. This means individuals who had a valid extension to file their 2020 return that ran out on October 15, 2021, will now have until February 15, 2022, to file. The IRS noted, however, that because tax payments related to these 2020 returns were due on May 17, 2021, those payments are not eligible for this relief. *Hurricane Ida tax relief extended to February 15 for part or all of six qualifying states.* Hurricane Ida tax relief extended to February 15 for part or all of six qualifying states | Internal Revenue Service (irs.gov) (Last visited October 22, 2023).

The IRS provided further clarification in an IRS bulletin issued August 30, 2023.

In addition, the IRS will work with any taxpayer who lives outside the disaster area but whose records necessary to meet a deadline occurring during the postponement period are located in the affected area. *IR-2023-159*, <https://content.govdelivery.com/accounts/USIRS/bulletins/36dac73> (Last visited November 4, 2023).

Taxpayer's tax advisor is and was located in one of the states affected by Hurricane Ida. As such, Taxpayer is entitled to the relief provided under the IRS guidelines because the necessary records are presumably held by the New Jersey preparer.

Taxpayer's refund request was submitted outside the standard three-year statute of limitations, but Taxpayer - by virtue of his relationship with his New Jersey tax advisor - is entitled to the extension provided under the IRS's guidelines. On the sole issue of timeliness, Taxpayer's protest is sustained.

FINDING

Taxpayer's protest is sustained.

November 16, 2023

Finding Replaces: New

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