

Letter of Findings Number: 08-0035
Use Tax
For the Year 2004

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ISSUE

I. Use Tax—Agricultural Exemption.

Authority: IC § 6-2.5-5-2; [45 IAC 2.2-5-4](#).

Taxpayer protests the Department's assessment of use tax with respect to an item of equipment.

STATEMENT OF FACTS

Taxpayer is an individual who operates a farm. In 2004, Taxpayer purchased a Bradco trencher attachment for a skid loader ("trencher"). When Taxpayer purchased the trencher, Taxpayer provided an exemption certificate to the retailer. By issuing the exemption certificate, Taxpayer avoided paying sales tax at the time of purchase. Subsequently, the Indiana Department of State Revenue ("Department") audited the retailer. Upon audit, the Department noted Taxpayer's exemption certificate, and assessed Taxpayer use tax on the trencher. Taxpayer protested the assessment, and this Letter of Findings results.

I. Use Tax—Agricultural Exemption.

DISCUSSION

Taxpayer protests the assessment of use tax with respect to the trencher. In particular, Taxpayer argues that he used the trencher for agricultural purposes.

Under IC § 6-2.5-5-2,

(a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

(1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;

(2) the person acquiring the property is occupationally engaged in the production of food or commodities which he sells for human or animal consumption or uses for further food and food ingredients or commodity production; and

(3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

[45 IAC 2.2-5-4](#), provides several examples of taxable purchases. Among these taxable transactions include "ditchers," which Taxpayer indicates is the function of the trencher.

Taxpayer has indicated that the trencher is used for providing water to livestock and for field drainage. While the Department accepts Taxpayer's contentions that he used the trencher as part of Taxpayer's agricultural operations and that he used the trencher only for agricultural purposes, Taxpayer did not meet the "directly used" in the "direct production" statutory elements necessary to claim an agricultural exemption.

FINDING

Taxpayer's protest is denied.

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