

Letter of Findings Number: 07-0109
Sales and Use Tax
For the Tax Years 2003 - 2005

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales and Use Tax – Imposition.

Authority: IC § 6-8.1-5-1(b); IC § 6-2.5-2-1(a); IC § 6-2.5-3-2(a).

The Taxpayer protests the imposition of use tax on consumables used in providing services.

STATEMENT OF FACTS

The Taxpayer is a corporation that provides plumbing services. The Indiana Department of Revenue (Department) audited the Taxpayer for the tax years 2003-2005. As a result of the audit, the Department assessed the Taxpayer with additional sales tax, use tax, interest, and penalty. The Taxpayer protested the assessment of use tax on consumables used in providing plumbing services. A hearing was held and this Letter of Findings results.

I. Sales and Use Tax – Imposition.

DISCUSSION

In providing plumbing services, the Taxpayer uses items such as masking tape, gases such as oxygen and nitrogen, blades, and cleaners. The Department assessed use tax on the Taxpayer's consumption of these items. The Taxpayer protested the assessment.

All tax assessments are presumed to be valid. IC § 6-8.1-5-1(b). The Taxpayer bears the burden of proving that any assessment is incorrect. *Id.*

IC § 6-2.5-2-1(a) imposes a sales tax on retail transactions made in Indiana. IC § 6-2.5-3-2(a) imposes a complementary use tax on the storage, use or consumption of tangible personal property in Indiana, if the property was acquired in a retail transaction as defined for sales tax purposes without paying sales tax at the time of purchase.

The Taxpayer purchased the consumables without paying sales tax at the time of purchase. The Taxpayer consumed the items such as masking tape and gas on which the Department assessed use tax. There is no exemption given in the law for the use of tangible personal property such as the provision of plumbing services. Therefore, the Department properly assessed use tax pursuant to IC § 6-2.5-3-2 (a).

FINDING

The Taxpayer's protest is denied.

Posted: 07/02/2008 by Legislative Services Agency
An [html](#) version of this document.