

**Supplemental Letter of Findings Number: 04-20120725**  
**Sales and Use Tax**  
**For the Years 2010-2011**

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**ISSUE**

**I. Sales Tax—Imposition.**

**Authority:** IC § 6-8.1-5-1.

Taxpayer protests the Department's assessment of sales and use tax.

**STATEMENT OF FACTS**

Taxpayer is a company doing business in Indiana. Taxpayer was audited by the Indiana Department of Revenue ("Department"). As a result of the audit, the Department determined that Taxpayer owed additional sales and use tax. Following the audit, Taxpayer filed a protest.

The Department initially issued a Letter of Findings denying Taxpayer's protest in full. Taxpayer requested—and the Department granted—a rehearing, and from which this Supplemental Letter of Findings results. Additional facts will be supplied as necessary.

**I. Sales Tax—Imposition.**

**DISCUSSION**

Taxpayer protests the assessment of additional sales and use tax on various transactions. The issue is whether Taxpayer has provided sufficient information to establish that the assessment was incorrect.

IC § 6-8.1-5-1(c) states in relevant part, "[t]he notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

Taxpayer provided checking account statements purporting to show automatic withdrawals by an unrelated company. Taxpayer provided utility bill payment services on behalf of the unrelated company. These transactions represented transactions for which a utility customer went to Taxpayer in order to pay the customer's utility bill. These transactions did not represent the sale of tangible personal property by Taxpayer or any other transaction taxable for sales and use tax purposes. Rather, Taxpayer served as a conduit for the customer to remit funds to the unrelated company. Thus, to the extent that Taxpayer has provided information establishing payments by Taxpayer to "Amer. Pay Sys." for the period covered by the Department's statistical sample, Taxpayer's protest is sustained.

Taxpayer has also provided other information purporting to establish that its sales were otherwise overstated. With regard to this information, Taxpayer has not provided sufficient legal or factual grounds to establish that the proposed assessment was incorrect.

**FINDING**

Taxpayer's protest is sustained with regard to transactions showing payments to "Amer. Pay Sys.", but otherwise respectfully denied.

*Posted: 01/29/2014 by Legislative Services Agency*

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