

## DEPARTMENT OF STATE REVENUE

04-20120725.LOF

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

**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 It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register.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/Use Tax—Imposition.**

**Authority:** IC § 6-8.1-5-1; IC § 6-2.5-2-1; IC § 6-2.5-3-2; IC § 6-8.1-5-4.

Taxpayer protests the Department's proposed assessment of 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. A hearing was held and this Letter of Findings results. Further facts will be supplied as required below.

**I. Sales/Use Tax—Imposition.****DISCUSSION**

At the outset, the Department notes that the burden of proving a proposed assessment is wrong rests with the person against whom the proposed assessment is made, as provided by IC § 6-8.1-5-1(c). Regarding sales and use tax, Indiana imposes a sales tax on retail transactions and a complementary use tax on tangible personal property that is stored, used, or consumed in the state. IC § 6-2.5-2-1; IC § 6-2.5-3-2.

Under IC § 6-8.1-5-4(a):

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Taxpayer made various assertions that it could provide records relating to the transactions that the Department claimed to be taxable. At the hearing, the Department requested any records available to substantiate Taxpayer's claims. However, the Department did not receive any documents or records from Taxpayer. Due to the lack of information provided to the Department, Taxpayer has not met its statutory burden of demonstrating that the Department's assessment is wrong.

**FINDING**

Taxpayer's protest is respectfully denied.

*Posted: 04/30/2014 by Legislative Services Agency*

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