

DEPARTMENT OF STATE REVENUE

04-20140009.LOF

Letter of Findings Number: 04-20140009
Use Tax
For Tax Years 2010, 2011, and 2012

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded by the publication of another document in the Indiana Register.

ISSUE**I. Use Tax – Liability.**

Authority: IC § 6-2.5-1-3; IC § 6-2.5-3-6(b); IC § 6-8.1-5-1(c); Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463 (Ind. 2012).

Taxpayer's current owner protests the imposition of use tax claiming payment of the tax is the responsibility of Taxpayer's previous owner.

STATEMENT OF FACTS

Taxpayer is an Indiana limited liability company. Taxpayer's ownership changed in March 2013. In December 2013, the Indiana Department of Revenue ("Department") conducted an audit of Taxpayer for the tax years 2010, 2011, and 2012. The previous owner participated in the audit. The Department issued proposed assessments of base tax and interest. Taxpayer's current owner protests the imposition of base tax and interest claiming the payment of tax is the responsibility of Taxpayer's previous owner. An administrative hearing was conducted, and this Letter of Findings results. Additional facts will be provided as needed.

I. Use Tax – Liability.**DISCUSSION**

Taxpayer's current owner does not protest the audit report conclusion that use tax is due. Rather, Taxpayer's current owner claims that payment of the tax is the responsibility of Taxpayer's previous owner. All tax assessments are prima facie evidence that the Department's claim for the tax is valid, and the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463, 466 (Ind. 2012). The issue before the Department is whether Taxpayer met its burden to prove the Department's assessment is incorrect.

Taxpayer is a limited liability company. A limited liability company is defined as a "person" for the purposes of use tax. IC § 6-2.5-1-3. "The person who uses, stores, or consumes the tangible personal property acquired in a retail transaction is personally liable for the use tax." IC § 6-2.5-3-6(b) (Emphasis added). Taxpayer used, stored, or consumed the tangible personal property identified in the audit report as subject to use tax. Therefore, Taxpayer is liable for the payment of the outstanding taxes due. The change in Taxpayer's ownership does not alter this result. Taxpayer's protest is respectfully denied.

FINDING

Taxpayer's protest is respectfully denied.

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