

**Final Order Denying Refund: 01-20170927R.ODR  
Gross Retail Tax  
For the Year 2013**

**NOTICE:** IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

**HOLDING**

Individual's refund request was outside the three year statute of limitations to request a refund.

**ISSUE**

**I. Gross Retail Tax - Statute of Limitations.**

**Authority:** IC § 6-8.1-9-1; IC § 6-8.1-5-2.

Taxpayer argues that its claim for a refund of sales tax paid during 2013 is not barred by the three-year statute of limitations.

**STATEMENT OF FACTS**

Taxpayer is an Indiana Individual who discovered that he paid excess sales tax for the purchase of a new car dated February 9, 2013. Taxpayer filed a refund request June 12, 2017.

In a letter dated August 2017 the Department stated that, "The Department has reviewed the claim and hereby denies the claim in full based upon . . . [t]he claim for refund was not filed within the time period required by law."

Taxpayer disagreed and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayer explained the basis for the protest. This Final Order Denying Refund results.

**I. Gross Retail Tax - Statute of Limitations.**

**DISCUSSION**

Taxpayer requests a refund of excess sales tax on a vehicle purchased in 2013. Taxpayer discovered the excess sales tax when he was being audited for an unrelated reason. The issue is whether the 2013 refund request was barred by the three-year statute of limitations. This decision does not address whether the transactions were or were not exempt, does not address the sufficiency of Taxpayer's documentation, nor does it address the calculation of the amount of refund requested.

IC § 6-8.1-5-2(a) provides:

Except as otherwise provided in this section, the department may not issue a proposed assessment under section 1 of this chapter more than three (3) years after the latest of the date the return is filed, or either of the following: (1) The due date of the return.

IC § 6-8.1-9-1(a) provides as follows:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f), (g), and (h), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

- (1) The due date of the return.
- (2) The date of payment.

**For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return**

**is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund. (Emphasis added).**

The Department's August 2017 letter stated that Taxpayer's refund claim was outside the statute of limitations to request a refund. Taxpayer provided the originating transaction purchase order dated February 9, 2013. Taxpayer also provided his refund request form dated June 12, 2017. As provided under IC § 6-8.1-9-1(a), "[T]he due date for a return filed for the state gross retail or use tax . . . is the end of the calendar year which contains the taxable period for which the return is filed." Thus Taxpayer had until December 31, 2016 to request a refund. Taxpayer's June 2017 refund claim was passed the deadline.

The Department was correct when it denied the 2013 refund claim on the ground that the claim was submitted after the running of the three-year statute of limitations ended. Thus, Taxpayer's protest is denied.

### **FINDING**

Taxpayer's protest denied.

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