

DEPARTMENT OF STATE REVENUE

04-20170456R.ODR

**Final Order Denying Refund: 04-20170456R
Sales and Use Tax
For the Tax Years 2013, 2014, and 2015**

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

Indiana Manufacturer was not entitled to the refund because its supporting documents failed to establish that it timely protested the Refund Denial and that it was entitled to an additional refund.

ISSUE**I. Sales and Use Tax - Refund.**

Authority: IC § 6-8.1-9-1; [45 IAC 15-9-2](#).

Taxpayer protests the Department's partial refund denial.

STATEMENT OF FACTS

Taxpayer is an Indiana company. On February 8, 2017, Taxpayer filed a claim for refund (Claim Number 1414325), in the amount of \$32,499.30. Taxpayer claimed that it was entitled to the refund for the sales/use tax it paid on utility regarding various meters. Upon review, the Indiana Department of Revenue ("Department") granted Taxpayer's refund claim in part, and denied it in part. The Department's decision was issued February 22, 2017.

Taxpayer protested the partial refund denial in June 2017. An administrative hearing was held by phone. This Final Order Denying Refund ensues. Additional facts will be provided as necessary.

I. Sales and Use Tax - Refund.**DISCUSSION**

The Department received Claim Number 1414325 and determined that Taxpayer was entitled to a partial refund. The Department, in a February 22, 2017, letter, explained that "[t]he Department has reviewed the claim and hereby approves the claim in part for [\$]3,071.06 . . . [because] [n]o exemption on file for meter numbers 0905612, 106808273, 1473823, and 0748733."

Taxpayer protested the refund denial on June 15, 2017. In its June 15, 2017, letter, Taxpayer stated:

RE: Claim [Number] 1414325

To Whom It May Concern:

We write to protest the denial of \$8,623.16 in our claim for refund of sales tax. This was denied because of statute of limitations. The original claim was made in December, 2016. It was sent back, by the state of Indiana, in January for lack of supporting documentation. The documentation was then provided.

We believe that the original claim date should be the date for determining when the statute of limitation should be calculated.

IC § 6-8.1-9-1(a) affords a taxpayer a statutory right to file a claim for refund, which, in relevant part, provides:

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. . . . [I]n 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 . . . 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.

[45 IAC 15-9-2](#)(d) explains, as follows:

When filing a claim for refund with the department the taxpayer's claim shall set forth:

- (1) the amount of refund claimed;
- (2) a sufficiently detailed explanation of the basis of the claim such that the department may determine its correctness;
- (3) the tax period for which the overpayment is claimed; and
- (4) the year and date the overpayment was made.

The claim for refund shall be filed on a form prescribed by the department.

IC § 6-8.1-9-1(b) provides that:

After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person that filed the claim. **If the person disagrees with a part of the decision on the claim, the person may file a protest and request a hearing with the department.** If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision. **(Emphasis added).**

IC § 6-8.1-9-1(d) further states in part:

The decision on the claim must state that the person has sixty (60) days from the date the decision is mailed to file a written protest. . . . (Emphasis added).

In this instance, the Department denied Taxpayer's refund (Claim Number 1414325) in part, and the decision of partial refund was issued February 22, 2017. Thus, Taxpayer had 60 days - namely until April 24, 2017 - to protest. The Department did not receive Taxpayer's protest until June 20, 2017, more than 100 days from the date the Refund Denial decision was issued. Thus, Taxpayer's protest is respectfully denied because it was untimely.

Even if, for the sake of argument, Taxpayer's protest is assumed to be timely, the February 22, 2017, decision explained that Taxpayer was entitled to only a partial refund because several utility meters did not qualify for a statutory exemption. Taxpayer thus was required to pay sales tax on the utilities it purchased and used concerning these meters. Taxpayer's letter suggested that it agreed with the Department's decision in that regard. Thus, the issue of whether the meters were exempt is moot.

Finally, Taxpayer, in its June 15, 2017, letter, argued that it filed the claim in December 2016. Taxpayer thus "believe[d] that the original claim date should be the date for determining when the statute of limitation should be calculated." Upon review, however, the Department is not able to agree. Taxpayer's documentation showed that Taxpayer apparently prepared the GA-110L form, its letter, and supporting documents in December 2016, but the documents were not sufficient to support its refund claim was properly filed in December 2016. Specifically, that GA-110L form only contained Taxpayer's name, address, and the responsible officer's signature. That GA-110L form did not have the specific information regarding (1) the amount of refund claimed; (2) a sufficiently detailed explanation of the basis of the claim such that the department may determine its correctness; (3) the tax period for which the overpayment is claimed; and (4) the year and date the overpayment was made. Moreover, Taxpayer's supporting documents were not verifiable because the documents contained no information, such as the Department's date stamp receipt if filing in person, the United State Postal Office payment receipt, or similar documents issued by a third party carrier, regarding the time it filed the claim. Without verifiable supporting documents, Taxpayer's argument must fail.

In short, given the totality of the circumstances, in the absence of other supporting documents, the Department is not able to agree that Taxpayer demonstrated that it was entitled to an additional refund.

FINDING

Taxpayer's protest is respectfully denied.

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