

Final Order Denying Refund: 04-20181838R
Sales Tax
For Tax Year 2014

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 document.

HOLDING

Transportation Service Provider was not entitled to additional refund of sales tax because a portion of the claim was filed outside of the statute of limitations; the submission of an incomplete refund claim did not toll the applicable statute of limitations.

ISSUE

I. Tax Administration - Refunds.

Authority: IC § 6-8.1-9-1; *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Wendt LLP v. Ind. Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Ind. Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); [45 IAC 15-9-2](#); Commissioner's Directive 13 (October 2015).

Taxpayer protests the partial denial of a claim for refund.

STATEMENT OF FACTS

Taxpayer is a company formerly headquartered in Indiana that provided transportation services. Taxpayer dissolved as an entity in January 2017 and merged into another company. On December 26, 2017, Taxpayer submitted a claim for refund of sales tax to the Indiana Department of Revenue ("Department") requesting a refund of sales tax paid from January 2014 through December 2017 on certain purchases that Taxpayer claimed were exempt from gross retail tax. Taxpayer filed a GA-110L on December 26, 2017, but did not attach all of the supporting documentation, including invoices.

The Department sent Taxpayer a rejection letter on January 8, 2018, stating, "[T]he Department cannot accept your claim for refund form because additional information is required." The letter requested additional documentation and provided Taxpayer twenty days to submit the required documentation. Taxpayer did not respond to the request. The Department sent a refund denial letter to Taxpayer on February 9, 2018. Taxpayer resubmitted its refund claim on March 9, 2018, along with the required documentation. The Department denied Taxpayer's refund request for sales tax paid during the 2014 tax year because the claim was filed outside of the statute of limitations for a refund of sales tax.

Taxpayer protests the partial denial of the refund. Taxpayer requested a final determination without a hearing. Further facts will be supplied as necessary.

I. Tax Administration - Refunds.

DISCUSSION

Taxpayer protests the Department's denial of its claim for refund for tax year 2014. In reviewing a taxpayer's argument, the Indiana Supreme Court has held that when it examines a statute that an agency is "charged with enforcing . . . we defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party." *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). In addition, poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Ind. Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Ind. Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

IC § 6-8.1-9-1(a) 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. Except as provided in subsections (f) and (g), 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).**

Furthermore, [45 IAC 15-9-2](#) provides, in relevant part:

(b) The department has no legal method of generating a claim for refund. A claim for refund can only be initiated pursuant to [IC 6-8.1-9-1](#).

...

(d) 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. **(Emphasis added).**

The Department further explains the requirements for properly claiming a refund in Commissioner's Directive 13 (October 2015), 20151125 Ind. Reg. 045150407NRA, which states, in relevant part:

Pursuant to [IC 6-8.1-9-1\(b\)](#), which requires the department to consider the claim for refund, the department, as part of its consideration of the claim, may request any additional information that might be necessary in making a determination regarding the validity of the refund claim. **If the information requested is not provided and the department therefore lacks sufficient information to grant the refund, the claim will be either rejected and returned to the taxpayer or denied.**

...

The taxpayer who has failed to provide the department with the necessary requested information will receive a notice of the department's decision. This notice will be sent as a letter informing the taxpayer of the department's action. **The decision by the department to reject and return a claim for refund due to insufficient information does not constitute a refund denial. For purposes of the applicable statute of limitations period in which the taxpayer may file a claim for refund, such statutory limitation is not suspended (or tolled) by the submission of an incomplete claim for refund.** Additionally, in the event a subsequent claim for refund is submitted and granted, **the period for refund payment without interest will begin from the date of the submission of the accepted claim for refund, not the date of the original rejected claim.** **(Emphasis added).**

In this instance, Taxpayer received a rejection of the submission of its original refund claim due to lack of sufficient documentation. The rejection letter was dated January 8, 2018. Taxpayer did not respond to this letter, resulting in the refund denial letter from the Department dated February 9, 2018. Taxpayer's refund claim was not accepted by the Department until March 9, 2018. As stated in Commissioner's Directive 13, the accepted refund claim does not relate back to the originally filed, rejected claim for purposes of the statute of limitations. The incomplete claim for refund filed on December 26, 2017, did not toll the statute of limitations under IC§ 6-8.1-9-1.

Taxpayer asserts that the rejection letter was sent to Taxpayer and not Taxpayer's Power of Attorney, thus the

reason Taxpayer did not respond to the request for additional information. However, there is no evidence that Taxpayer itself did not receive the notice, and the fact that Taxpayer may not have timely forwarded this correspondence to its representative does not warrant the Department equitably tolling the statute of limitations. The rejection letter was clear that Taxpayer had twenty days to provide additional documentation or its claim would be denied, and also stated that the statute of limitations would not be tolled by the submission of the incomplete claim. Thus, the Department was correct in denying the 2014 portion of Taxpayer's claim for being filed outside of the statute of limitations.

FINDING

Taxpayer's protest is respectfully denied.

November 26, 2018

Posted: 01/30/2019 by Legislative Services Agency

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