

## DEPARTMENT OF STATE REVENUE

04-20182440R.ODR

**Final Order Denying Refund: 04-20182440R**  
**Sales Tax**  
**For Tax Year 2013-2014 and 2017**

**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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. 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 did not request part of its refund claim within the statutorily allotted three years. Thus, Individual's refund claim was properly partially denied.

### ISSUE

#### I. Sales Tax - Statute of Limitations.

**Authority:** IC § 6-8.1-9-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the partial denial of its claim for refund.

### STATEMENT OF FACTS

Taxpayer is an Indiana resident and operates his own trailer rental company. Taxpayer purchased trailers and registered the trailers at the Indiana Bureau of Motor Vehicles ("BMV"). Upon registration, Taxpayer paid sales tax. Taxpayer requested a refund of sales tax paid for 2013, 2014 and 2017. The Indiana Department of Revenue ("Department") denied the claim in part stating that the 2013 and 2014 requests were outside of the statute of limitations. The Department granted the 2017 claim. Taxpayer protested the refund denial and requested a hearing. This Final Order Denying Refund results. Additional facts will be provided as necessary.

#### I. Sales Tax - Statute of Limitations.

### DISCUSSION

Taxpayer protests the Department's refund denial. Taxpayer states that he went into the BMV 2013, 2014, and 2016 to purchase license plates for the trailers. Taxpayer then rented the trailers to clients and stated that at the time of registration. Taxpayer stated in his protest letter,

I stated my intention to the [BMV] clerk at the time. You can see by my name on the bill [Taxpayer's Rental Company] that they knew I was going to rent/lease these trailers. The clerk's supervisor approved the transactions; but they did not tell me that I should not pay the sales tax at that point. I feel that they did not do their job on my behalf in this matter.

I did not know that I should have not paid sales tax at the license branch, until I talked to my accountant about setting up my sales tax account with the Indiana Dept. of Revenue in 2016. I did pay all of the sales tax I charged in 2013, 2014 and 2015 in 2016 after getting setup with the sales tax Dept [sic].

The Department initially notes that, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as all the Department's previous decisions, shall be entitled to deference.

The issue raised by Taxpayer is addressed at IC § 6-8.1-9-1(a) which states in relevant part:

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 later 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.

Taxpayer paid the sales tax in 2013 and 2014 but requested a refund of the sales tax June 19, 2018. Taxpayer's request was clearly outside the statute of limitations stated in IC § 6-8.1-9-1. Furthermore the statute does not provide any exceptions to the three years statute of limitations stated. Thus, pursuant to IC § 6-8.1-9-1 Taxpayer's refund request was untimely and his protest is denied.

#### **FINDING**

Taxpayer's protest of the partial refund denial by the Department is denied.

March 28, 2019

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