

DEPARTMENT OF STATE REVENUE

04-20190034R.MOD

Memorandum of Decision: 04-20190034R
Sales Tax
For Tax Years 2015-2017

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 is provided for the convenience of the reader and is not part of the analysis contained in this document.

HOLDING

Company provided additional information during the protest process. Company's protest is sustained subject to the Department's verification of the documentation.

ISSUE

I. Sales Tax—Refund.

Authority: IC § 6-2.5-2-1; *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the refund denial.

STATEMENT OF FACTS

Taxpayer is a retail merchant with some stores in Indiana. Taxpayer requested a refund of sales tax for the years 2015, 2016, and 2017. The Indiana Department of Revenue ("Department") denied Taxpayer's refund request in full. A hearing was held, and this Final Order Denying Refund results. Additional facts will be supplied as required.

I. Sales Tax—Refund.

DISCUSSION

Taxpayer protests the Department's refund denial. With its refund claim, Taxpayer provided an excel spreadsheet with transactions but did not provide invoices. The Department issued a denial letter dated August 28, 2018 stating that "The Department has reviewed the claim and denies the claim in full in the amount of \$74,985.42 based on the reason[] below: The company has failed to provide invoices for the items. The enclosed CD provides a listing of invoice numbers."

The Department has reviewed the applicable law and subsequent documentation provided by Taxpayer. It should be noted 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.'" *Dep't 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 shall be entitled to deference. A taxpayer is required to provide documentation explaining and supporting its challenge that the Department's denial is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Sales tax is imposed by IC § 6-2.5-2-1, which states:

- (a) An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana.
- (b) The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. The retail merchant shall collect the tax as agent for the state.

Taxpayer protests the refund denial stating that Taxpayer paid sales tax at the time of purchase but the items purchased were exempt. In the course of the protest process, Taxpayer provided the necessary invoices. The

Department's refund division will review the invoices to ensure refund is warranted and that the transactions were exempt. Taxpayer's protest is sustained subject to verification.

FINDING

Taxpayer's protest is sustained subject to verification.

October 17, 2019

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