

## DEPARTMENT OF STATE REVENUE

04-20191360R.ODR

**Memorandum of Decision: 04-20191360R**  
**Sales/Use Tax**  
**Tax Period November 31, 2016-January 8, 2019**

**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 did not provide detailed invoices as requested by the Department. Company could not substantiate its refund request, therefore the Department was correct in denying its refund claim.

### ISSUE

#### **I. Sales & Use Tax - Claim for Refund.**

**Authority:** IC § 6-2.5-5-5.1; IC § 6-2.5-2-1.

Taxpayer protests the Department's denial of its claim for refund.

### STATEMENT OF FACTS

Taxpayer filed a sales and use tax Claim for Refund (GA-110L) with the Indiana Department of Revenue ("Department") for the tax period referenced above. Taxpayer's refund claim was denied because Taxpayer did not provide invoices to support their refund request. Taxpayer filed a protest requesting a refund review of the Department's denial. Upon review, the Department maintained its refund denial. An administrative hearing was held, and this written ruling results. Additional facts will be supplied as necessary.

#### **I. Sales & Use Tax - Claim for Refund.**

### DISCUSSION

Taxpayer is a manufacturer with a plant in Indiana. As part of its operations, Taxpayer "purchases items which may be taxable or nontaxable under Indiana Code [] 6-2.5-5-5.1."

Indiana imposes a sales tax, found at IC § 6-2.5-2-1, on retail transactions. The statute states that the "retail merchant shall collect the tax as agent for the state." Indiana also provides exemptions for sales and use tax. One such exemption is IC § 6-2.5-5-5.1, which states that "'tangible personal property' includes electrical energy, natural or artificial gas, water, steam, and steam heat." IC § 6-2.5-5-5.1 also states that "Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing . . . ." Taxpayer's protest is specifically regarding electricity used that Taxpayer argues is exempt.

Taxpayer requested a refund of sales tax on electricity it has determined is exempt. The Department denied Taxpayer's refund because they failed to provide invoices to support its claim. Taxpayer protested the refund denial. In its protest, Taxpayer provided a customer billing history from the utility company. The history however did not provide a line item of sales tax paid. The Department even attempted to calculate the sales tax to determine if the number matched the refund request to the billing history however, the Department was unable to substantiate Taxpayer's numbers. Taxpayer was then asked to provide actual invoices or billing summary showing sales tax paid. Taxpayer stated in an email that, "our service provider rep said that they are unable to produce bills specifically showing the sales tax."

Taxpayer has failed to provide the Department with the invoices to substantiate the amount of sales tax paid. Without confirmation of sales tax paid, the Department is unable to agree with Taxpayer's protest. Thus Taxpayer's protest is denied for this issue.

**FINDING**

Taxpayer's protest is denied.

March 11, 2020

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