

**Letter of Findings: 04-20191427**  
**Gross Retail Tax**  
**For the Tax Periods 2016 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Document.

### HOLDING

Company was audited and agreed with the additional tax assessed. However, Company requested the Department to waive interest. Per the statute, the Department is not permitted to waive interest.

### ISSUE

#### I. Tax Administration - Interest.

**Authority:** IC § 6-8.1-10-1; IC § 6-8.1-5-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer requests that the Department waive the statutory interest.

### STATEMENT OF FACTS

Taxpayer is a company operating in Indiana. Taxpayer was audited by the Indiana Department of Revenue ("Revenue") for tax years 2016 and 2017. Taxpayer was assessed additional tax and interest as a result of the audit. Taxpayer filed a protest and requested a "Final Determination without a Hearing." Thus, Taxpayer waived its right to an administrative hearing. This Letter of Findings results and additional facts will be supplied as necessary.

#### I. Tax Administration - Interest.

### DISCUSSION

Taxpayer was audited for additional sales tax for the referenced tax period. In addition, Taxpayer owed interest on the additional tax assessed. Taxpayer stated in their protest letter that it is protesting interest applied to the amount assessed, and actually paid the base sales tax due. As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). When an agency is charged with enforcing a statute, the jurisprudence defers to the agency's reasonable interpretation of that statute "over an equally reasonable interpretation by another party." *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Under IC § 6-8.1-10-1(a), "[i]f a person fails to file a return for any of the listed taxes, fails to pay the full amount of tax shown on the person's return by the due date for the return or the payment, or incurs a deficiency upon a determination by the department, the person is subject to interest on the nonpayment." The Department cannot waive this interest under IC § 6-8.1-10-1(e) because it is statutorily required. Therefore, Taxpayer's protest of interest is denied.

### FINDING

Taxpayer's protest is denied.

March 11, 2020

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