

DEPARTMENT OF STATE REVENUE

04-20191369R.ODR

Final Order Denying Refund: 04-20191369R
Sales & Use Tax
For Tax Period January 1, 2019 through March 31, 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 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

Business was unable to support its sales tax refund claim with sufficient evidence for the Department to determine its correctness. The protest is denied.

ISSUE

I. Sales Tax–Refund.

Authority: IC § 6-2.5-2-1; IC § 6-2.5-5 *et. seq.*; IC § 6-8.1-9-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dep't of State Revenue v. Kimball Int'l Inc.*, 520 N.E.2d 454 (Ind. Ct. App. 1988); *Indiana Dep't of State Revenue, Sales Tax Division v. RCA Corp.*, 310 N.E.2d 96 (Ind. Ct. App. 1974); *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 denial of its claim for refund.

STATEMENT OF FACTS

Taxpayer is an Indiana company specializing in providing its customers with internet connections. In April of 2019, Taxpayer filed a GA-110L claim for refund of sales tax paid on various purchases made during January, February, and March of 2019. In a letter dated July 8, 2019, the Department requested additional documentation from Taxpayer to support its claim. In a phone call to the Department, Taxpayer was told it had used the wrong version of the GA-110L form. On July 12, 2019 Taxpayer re-submitted its claim using the updated version of the GA-110L form.

In a letter dated August 27, 2019, the Department denied Taxpayer's claim due to a lack of supporting documentation. Taxpayer protested but waived its right to an administrative hearing. Thus, this Final Order Denying Refund is based on the information in the file. Further facts will be supplied as required.

I. Sales Tax–Refund.

DISCUSSION

Taxpayer protests the denial of their sales tax refund claims for purchases made during January, February, and March of 2019. To support its claims, Taxpayer appears to claim it is exempt and it also provided copies of all of the relevant purchase invoices.

As a preliminary matter, the Department 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 the initial refund determination, shall be entitled to deference.

When a taxpayer determines it has overpaid a tax, the taxpayer must file a GA-110L form as prescribed by the Department in order to claim a refund. IC § 6-8.1-9-1(a). 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." *Id.* Consequently, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's position 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. 2011). In applying any tax exemption, "[T]he general rule is that tax exemptions are strictly construed in favor of taxation and against the exemption." *Indiana Dep't of State Revenue v. Kimball Int'l Inc.*, 520 N.E.2d 454, 456 (Ind. Ct. App. 1988). A statute which provides a tax exemption, is strictly construed against the taxpayer. *Indiana Dep't of State Revenue, Sales Tax Division v. RCA Corp.*, 310 N.E.2d 96, 97 (Ind. Ct. App. 1974). "[W]here such an exemption is claimed, the party claiming the same must show a case, by sufficient evidence, which is clearly within the exact letter of the law." *Id.* at 101.

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.

There are several exemptions to sales tax detailed at IC § 6-2.5-5 *et. seq.* However, Taxpayer failed to list any reason as to why its purchases are exempt, nor do purchase invoices provided list any exemption information.

As stated above, a Taxpayer is required to provide sufficient information so that the Department may review a claim for refund and determine the correctness of the claim. While the documentation Taxpayer provided supports the requested refund amount, it does not provide any reason that the tax should be refunded. It is for this reason that Taxpayer's protest is denied.

FINDING

Taxpayer's protest is respectfully denied.

September 1, 2020

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