

**Letter of Findings: 04-20231220  
Sales and Use Tax  
For the Tax Year 2022**

**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 Indiana Department of Revenue's (the "Department") 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Letter of Findings.

### HOLDING

Indiana farmer was liable for the sales tax on a tractor purchased at auction.

### ISSUE

#### **I. Sales and Use Tax - Agricultural Exemption.**

**Authority:** [IC 6-2.5-2-1](#); [IC 6-2.5-3-2](#); [IC 6-2.5-5-2](#); [IC 6-8.1-5-1](#); [45 IAC 2.2-5-1](#); [45 IAC 2.2-5-4](#); *Indiana Dept. of State Revenue v. Interstate Warehousing*, 783 N.E.2d 248 (Ind. 2003).

Taxpayer protests the assessment of tax on his purchase of tangible personal property.

### STATEMENT OF FACTS

Taxpayer, an Indiana farmer, purchased a Ford 5000 tractor ("Tractor") at auction. The auctioneer did not have an ST-105 sale tax exemption form available at the time of purchase, and Taxpayer paid sales tax on the tractor. Taxpayer then requested a refund of the tax paid, stating that the tractor was needed to mow farm ground. The Indiana Department of Revenue ("Department") denied the refund on the basis that mowing would fall under general lawn maintenance. Taxpayer submitted a timely protest and listed additional uses of the tractor, including cutting set-aside farm ground, cutting and raking hay, pulling wagons, and other tasks on the farm. Taxpayer opted to waive his right to a hearing. This Letter of Findings is therefore based on the documentation provided with the Taxpayer's protest letter. Further facts will be supplied as necessary.

### DISCUSSION

#### **I. Sales and Use Tax - Agricultural Exemption.**

Taxpayer claims that he is entitled to the agricultural exemption found in [IC 6-2.5-5-2](#).

All proposed assessments are presumed to be accurate; a taxpayer bears the burden of proving that the assessment is incorrect. [IC 6-8.1-5-1\(c\)](#). Exemption statutes are to be strictly construed against the Taxpayer. *Indiana Dept. of Revenue v. Interstate Warehousing*, 783 N.E.2d 248, 250 (Ind. 2003).

Indiana imposes a sales tax on transactions regarding tangible items, [IC 6-2.5-2-1](#). The state also imposes an excise tax, the use tax, on tangible items purchased, stored, used or consumed in Indiana. [IC 6-2.5-3-2\(a\)](#).

Taxpayer bases his claim for the refund of sales tax on the following provisions of [IC 6-2.5-5-2](#), which state:

- (a) Transactions involving **agricultural machinery, tools, and equipment** are exempt from the state gross retail tax if the person acquiring that property acquires it for his **direct use in the direct production, extraction, harvesting, or processing of agricultural commodities**.
- (b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:
  - (1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;
  - (2) the person acquiring the property is occupationally engaged in the production of food or commodities which he sells for human or animal consumption or uses for further food and food ingredients or commodity production; and

(3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.  
(**Emphasis added**).

[45 IAC 2.2-5-1](#)(a) further provides:

Definitions. "Farmers" means only those **persons occupationally engaged in producing food or agricultural commodities for sale or for further use in producing food or such commodities for sale.** .  
. Only those persons, partnerships, or corporations whose intention it is to produce such food or commodities at a profit and not those persons who intend to engage in such production for pleasure or as a hobby qualify within this definition. . .  
**"To be directly used by the farmer in the direct production of food or agricultural commodities" requires that the property in question must have an immediate effect on the article being produced. Property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process which produces food or an agricultural commodity. (Emphasis added).**

[45 IAC 2.2-5-4](#), in part, further includes a list of items that are often considered subject to sales tax. Items include fence material, motor vehicles licensed for highway use, ditchers and graders, as well as a variety of garden and lawn equipment. To receive an exemption from sales tax on an item listed, it must be "occupationally engaged in agricultural production" and the item must be used in the "direct production of agricultural products." [45 IAC 2.2-5-4](#)(d).

The Department notes that just because an item is purchased to be used on a farm does not automatically make it exempt from sales tax. The property in question must have an immediate effect on the article being produced and be an "essential and integral part of an integrated process which produces agricultural products. The fact that a piece of equipment is convenient, necessary, or essential to farming is insufficient to determine if it is used directly in direct production as required to be exempt." [45 IAC 2.2-5-4](#)(e).

Taxpayer's protest letter explains that he uses the Tractor (1) to cut set aside ground, (2) cut and rake hay, and (3) pull wagons. The use of cutting set aside ground and pulling wagons are examples of use after and/or before the direct production of an agricultural commodity and therefore do not have a direct production effect upon the commodity. The act of cutting and raking hay would meet the requirements of a direct production of an agricultural commodity, if the hay were sold as an agricultural commodity, as required by [IC 6-2.5-5-2](#)(b)(1). Taxpayer did not provide any documentation or analysis to establish that the hay produced was being sold. Therefore, the tractor is still not engaged in the production of an agricultural commodity and not exempt under [IC 6-2.5-5-2](#).

Taxpayer did not establish that he is occupationally engaged in agricultural production with the usage of the Tractor. Pursuant to the above-mentioned statutes and regulations, all purchases of tangible personal property by persons engaged in the direct production, extraction, harvesting, or processing of agricultural commodities are taxable, unless the use of the tangible personal property satisfies the "double-direct" test: the equipment at issue must be involved in the direct production of the agricultural commodity, must have a direct effect upon that commodity and that commodity must be for sale, as required by [IC 6-2.5-5-2](#)(b)(1). Since Taxpayer's use of the Tractor did not qualify for the agricultural exemption, and since he was required to pay sales tax at the time of purchase, the Department correctly denied the refund.

## FINDING

Taxpayer's protest is respectfully denied.

July 13, 2023

*Finding Replaces: New*

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An [html](#) version of this document.