

Final Order Denying Refund: 04-20211017 and 04-20211018
Indiana Gross Retail Tax
For the Year 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 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

Indiana law did not permit the Department the freedom to grant Indiana Manufacturer an extension of time in which to submit sales tax refunds.

ISSUE

I. Sales Tax Refund - Statute of Limitations.

Authority: [IC 6-8.1-9-1](#); *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Indiana Dep't of State Revenue v. Kimball Int'l Inc.*, 520 N.E.2d 454 (Ind. Ct. App. 1988).

Taxpayer argues that it is entitled to multiple refunds of sales tax paid on the purchase of exempt utility services.

STATEMENT OF FACTS

Taxpayer sought a refund of approximately \$15,000 for utilities consumed in an exempt fashion and submitted to the Indiana Department of Revenue ("Department") multiple refund requests.

The Department reviewed the first request and responded in a letter dated June 30, 2021. The Department's letter approved the refund in part and denied the refund in part explaining as follows.

DOR has reviewed the claim and denies the claim in part in the amount of [approximately \$2,200] based on the reasons below.

Tax year is out of the statute of limitations. The claim for refund was not filed within the time period required by law.

Taxpayer submitted a second refund request seeking a refund of approximately \$10,000 in sales tax paid on the purchase of exempt utilities. The Department again responded in a separate letter dated July 8, 2021. For the same reasons explained in the previous letter, the Department granted the refund in part and denied it in part. The Department denied a refund of approximately \$500 because "[t]he claim for refund was not filed within the time required by law."

In both instances, Taxpayer disagreed with the Department's decision denying the two refund amounts and submitted two protests to that effect. In both written protests, Taxpayer asked for a "[f]inal determination without a hearing."

This Final Order Denying refund results and addresses both Taxpayer protests.

I. Sales Tax Refund - Statute of Limitations.

DISCUSSION

The issue is whether Taxpayer has established that the Department made a mistake when it denied the cumulative refunds of approximately \$12,200 in sales tax.

When a taxpayer challenges taxability in a specific instance, that taxpayer is required to provide documentation explaining and supporting its challenge. 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). In interpreting, applying, and administering a statute which allows for a tax exemption, the overarching 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).

When an agency is charged with enforcing a statute that comes within the agency's purview, 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 Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

The Department found that a portion of the original refund requests were filed outside the statute of limitations. In particular, [IC 6-8.1-9-1\(a\)](#) provides:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (j) and (k), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the **due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed.** 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. (**Emphasis added**).

In this instance, the Department determined that the claims for a refund of sales tax paid in 2017 were three years after the end of the calendar year in which the taxes were paid.

Taxpayer does not dispute the Department's "date of payment" calculation. Instead, Taxpayer submits arguments intended to support its contention that its particular circumstances call for the Department to exercise an amount of latitude in the application and enforcement of [IC 6-8.1-9-1\(a\)](#).

Taxpayer points out that the COVID pandemic and accompanying workplace restrictions impacted Taxpayer's staffing needs and its business operation. COVID and staffing issues were "out of our control."

The Department is not unsympathetic and acknowledges the difficulties and restrictions imposed on the business community at large. While the COVID pandemic was an unexpected and unique event, [IC 6-8.1-9-1\(a\)](#) does not give either the Taxpayer or the Department the latitude to pick- and-choose when and how to apply and enforce the four-corners of Indiana's statute of limitations.

[IC 6-8.1-9-1\(a\)](#) binds both Taxpayer and the Department, and Taxpayer's protests are respectfully denied.

FINDING

Taxpayer's protests of the two refund denials are denied.

October 12, 2023

Finding Replaces: New

Posted: 01/03/2024 by Legislative Services Agency
An [html](#) version of this document.