

DEPARTMENT OF STATE REVENUE

04-20232160.MOD

**Memorandum of Decision: 04-20232160
Sales and Use Tax
For The Year 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 Memorandum of Decision.

HOLDING

Out-of-state industrial supply retailer established that its claim for refund was timely filed.

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)

Taxpayer protested the refund denial for sales tax remitted in 2019.

STATEMENT OF FACTS

Taxpayer is an out-of-state industrial supply retailer who regularly remits sales tax to Indiana. In July 2022, Taxpayer submitted an amended ST-103 for the period ending June 30, 2019, requesting a refund of approximately \$34,000 of sales tax previously remitted to Indiana. On April 17, 2023, the Indiana Department of Revenue ("Department") issued a letter to Taxpayer stating that its refund claim must be denied as it was not timely filed. Taxpayer protested this denial and waived its right to an administrative hearing. This Memorandum of Decision is written in reliance of documentation provided by the Taxpayer and the Department's own records. Additional facts will be provided as necessary.

I. Sales Tax Refund - Statute of Limitations.**DISCUSSION**

Taxpayer protests the Department's refund denial, claiming that some of its June 2019 sales tax payments should be refunded. The Department denied the claim based on the statute of limitations to file a claim for refund.

"[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.'" *Indiana Dep't 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 shall be entitled to deference.

Indiana law affords taxpayers a statutory right to file a claim for refund. [IC 6-8.1-9-1\(a\)](#) provides, in part:

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 later 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. . . 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).

The Department's denial letter, dated April 17, 2023, states in pertinent part that Taxpayer's protest was denied for failing to file the claim "within three years after the due date of the return or date of payment, whichever is

later."

A review of the documentation provided by Taxpayer reflects that Taxpayer filed an amended return in July 2022 for sales tax period ending June 30, 2019, requesting a refund of approximately \$34,000. Under [IC 6-8.1-9-1\(a\)](#), the due date of the return is deemed to be the end of the calendar year which contains the taxable period. In this case, the due date for the return was December 31, 2019. Three years from that date is December 31, 2022. Therefore, Taxpayer's request for refund was timely filed pursuant to Indiana law. Since the Department's refund denial only referenced the claim's purported untimeliness, this Memorandum of Decision only addresses that question. The Department will review the claim on its merits and will determine the correct amount, if any, of refund due.

FINDING

Taxpayer's protest is sustained. The merits of Taxpayer's refund request shall be reviewed by the Department for substantiation and verification of the claim.

October 18, 2023

Finding Replaces: New

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