

Letter of Findings: 04-20232157
Sales and Use Tax
For The 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 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual taxpayer established that he did not owe sales tax to Indiana.

ISSUE

I. Sales Tax - Tax Assessment.

Authority: [IC 6-8.1-5-1](#); [IC 6-2.5-2-1](#); [IC 6-2.5-2-2](#); [IC 6-2.5-13-1](#); *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014) *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012).

Taxpayer protested the Indiana Department of Revenue's ("Department") notice of proposed assessment for unpaid sales tax.

STATEMENT OF FACTS

Taxpayer is an individual who sells vehicle parts on an online auction site. Taxpayer failed to report sales tax to the Department for tax year 2022. Due to his failure to file a sales tax return, the Department estimated his sales and issued a notice of proposed assessment. Taxpayer protested this assessment and waived his right to an administrative hearing. This Letter of Findings was written based on Taxpayer's explanation and documentation provided with his protest and the Department's own records. Additional facts will be provided as necessary.

I. Sales Tax - Tax Assessment.

DISCUSSION

Taxpayer sold vehicle parts via an online auction site during tax year 2022. All of Taxpayer's sales were conducted online and shipped to the purchaser. The Department determined that Taxpayer had failed to file any monthly ST-103s for the tax period at issue. The Department then issued a notice of proposed assessment for unpaid sales tax and based its calculations of sales tax due for tax year 2022 on the best information available. Taxpayer subsequently protested the assessment. In support of his protest, Taxpayer provided documentation from the online auction site regarding his sales for the relevant tax year.

The proposed assessment constitutes evidence that the Department's claim for the unpaid tax is valid, and each taxpayer bears the burden of proving that any assessment is incorrect. [IC 6-8.1-5-1\(c\)](#); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d. 463, 466 (Ind. 2012). Further, "[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.

Pursuant to [IC 6-2.5-2-1\(a\)](#), sales tax, also known as state gross retail tax, is imposed on retail transactions made in Indiana unless a valid exemption is applicable. Sales tax is imposed at a rate of seven percent. [IC 6-2.5-2-2\(a\)](#). Sales subject to Indiana sales tax are sourced according to [IC 6-2.5-13-1\(d\)](#) which states in relevant part:

(d) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced

to that business location.

(2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.

As a part of his protest, Taxpayer provided documentation from the online auction site detailing each transaction from tax year 2022, including the shipping address with city, state, and zip code of each purchaser. The spreadsheet reflects that only one of the transactions occurred in Indiana. None of Taxpayer's sales were received by the purchaser at Taxpayer's business location in Indiana. [IC 6-2.5-13-1\(d\)\(2\)](#) provides that the sale should be sourced to the location where the purchaser receives the product. All but one of Taxpayer's sales from 2022 should be sourced to the states where the items were received pursuant to Indiana law and, if Taxpayer owes sales tax on those transactions, it would be owed to those respective states.

As to Taxpayer's one sale that was received by the purchaser in Indiana, that is a sale that would be sourced to Indiana under [IC 6-2.5-13-1](#) and therefore subject to Indiana sales tax. However, information from the online auction site's website confirms that it collects sales tax on behalf of the seller and remits said tax to the respective states.

The documentation provided to Taxpayer by the online auction site reflects that all sales tax owed to Indiana was properly collected by the online auction site. Consequently, no sales tax is owed by the Taxpayer.

The Department kindly reminds Taxpayer to regularly report sales, even when no sales tax is owed, to Indiana via a monthly ST-103 form to avoid future misunderstandings such as those contained in this Letter of Findings.

FINDING

Taxpayer's protest is sustained.

November 27, 2023

Finding Replaces: New

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