

DEPARTMENT OF STATE REVENUE

04-20232061.MOD

**Memorandum of Decision: 04-20232061
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

Delivery service established that it was entitled to a refund of verified amounts of sales tax paid to Indiana for vehicle rentals; it was not entitled to a refund of Indiana auto rental excise tax or sales tax paid to Ohio.

ISSUE**I. Sales Tax Refund - Documentation.**

Authority: [IC 6-2.5-2-1](#); [IC 6-2.5-2-2](#); [IC 6-2.5-5-27](#); [IC 6-6-9-7](#); [IC 6-6-9-8](#); [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 2022.

STATEMENT OF FACTS

Taxpayer is an Indiana delivery service provider who contracts with a large retailer to deliver their products. Taxpayer regularly rents large vans to deliver said products. On February 16, 2023, Taxpayer submitted a claim for refund with the Indiana Department of Revenue ("Department") for sales tax paid on vehicle rentals. On May 31, 2023, the Department denied Taxpayer's claim, noting that the refund claim was incomplete and contained errors, such as including a refund request for sales tax paid to Ohio for vehicles rented there. Taxpayer protested the refund denial. An administrative hearing was held, and this Memorandum of Decision results. Additional facts will be provided as necessary.

I. Sales Tax Refund - Documentation.**DISCUSSION**

Taxpayer protests the Department's refund denial, claiming that it is entitled to a refund of sales tax paid to various vehicle rental companies.

Indiana law affords taxpayers a statutory right to file a claim for refund where, "a person has paid more tax than the person determines is legally due for a particular taxable period. . ." [IC 6-8.1-9-1\(a\)](#). Additionally, "[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. One such exemption is found under [IC 6-2.5-5-27](#), which provides, "transactions involving tangible personal property and services are exempt from the state gross retail tax [] if the person acquiring the property or service directly uses or consumes it in providing public transportation for persons or property."

In addition to the gross retail tax, "[a]n excise tax, known as the auto rental excise tax, is imposed upon the rental of passenger motor vehicles and trucks in Indiana for periods of less than thirty (30) days." [IC 6-6-9-7\(a\)](#). Unlike the gross retail tax, which is imposed at a seven percent rate, the auto rental excise tax ("ARET") is imposed at a rate of four percent. [IC 6-2.5-2-2\(a\)](#); [IC 6-6-9-7\(b\)](#). ARET also has its own set of exemptions which are outlined under [IC 6-6-9-8](#).

Taxpayer requested a refund of sales tax it paid to various auto rental companies for vehicles it used to transport retail goods to consumers of those goods. Taxpayer sought the refund under the public transportation exemption outlined in [IC 6-2.5-5-27](#). The Department denied this claim based on errors and omissions in Taxpayer's documentation. After an administrative hearing, Taxpayer provided the Department with additional, more complete documentation of its auto rental activity in 2019, including relevant invoices. During 2019, Taxpayer's documentation reflects that it rented from three different rental companies. Taxpayer only provided invoices confirming sales tax paid to two of the three rental companies. The documentation also reflects that some of the transactions at issue involve rentals from Ohio locations. Many of the Indiana invoices also reflect that ARET was collected on these transactions.

Indiana cannot refund sales tax collected and remitted to another state; if Taxpayer is entitled to a refund of sales tax paid to Ohio, Taxpayer's remedy lies with the state of Ohio. Additionally, Taxpayer is not entitled to a refund of ARET paid to Indiana rental companies. As noted above, ARET has its own set of exemptions, enumerated under [IC 6-6-9-8](#), and Taxpayer does not qualify for any of the exemptions. However, in the course of the protest process, Taxpayer provided sufficient documentation to establish that it does qualify for the exemption listed under [IC 6-2.5-5-27](#) and is entitled to a refund of the sales tax paid to Indiana auto rental companies for which it provided corresponding invoices that confirm the amount of sales tax paid. The Department will refund those amounts verified by documentation.

FINDING

Taxpayer's protest is partially sustained, and partially denied, to the extent described above.

January 23, 2024

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