

Final Order Denying Refund: 04-20221010
Sales Tax
For the Years 2016, 2017, 2018 and 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 Final Order Denying Refund.

HOLDING

The Department was unable to agree with Religious Organization that it was entitled to a refund of sales tax claimed outside the three-year statute of limitation; the Department was unable to accept Religious Organization's undefined offer to "settle" the disputed refund amount.

ISSUE

I. Gross Retail Tax - Sales Tax Refund.

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).

Taxpayer argues that it is entitled to a refund of sales tax collected by its utility providers and forwarded to the Indiana Department of Revenue.

STATEMENT OF FACTS

Taxpayer is an Indiana Religious Organization which pays telephone and other utility service providers. Taxpayer submitted a form GA-110L ("Claim for Refund") seeking the return of "sales & use" tax. The GA-110L was dated August 5, 2020, but not did indicate the year or dates the taxes were paid, did not include the refund amount, and did not indicate when Taxpayer paid the taxes.

The Indiana Department of Revenue ("Department") responded by means of a letter dated August 17, 2020. The letter stated that the Department "cannot officially accept your Form GA-110L." The Department stated that the claim was "invalid under IC § 6-8.1-9-1." According to the Department, such a claim was invalid unless it included "a period amount, a requested refund amount and a date of tax payment."

Taxpayer resubmitted the claim August 4, 2021. The Department again responded by means of a letter dated August 12, 2021. The letter stated that the Department was granting the refund in part and denying it in part. Taxpayer originally sought a refund of approximately \$6,000; of that amount, the Department agreed to refund \$3,700 but denied the remaining \$2,300. The Department explained the reason for denying the \$2,300.

IC § 6-8.1-9-1(a) provides that for a refund claim to be timely it must be made within three years of later of the return's due date or the date of the payment(s). The claim included utilities for calendar years 2016 and 2017. The statute date for filing this claim would be December 31, 2020. However, the claim was received on August 4, 2021 which is past the outlined statute date. The [T]axpayer's claim for refund for these periods is respect[fully] denied.

Taxpayer disagreed with the decision and submitted a protest to that effect. Attached to the protest form, Taxpayer also provided an undated and unsigned explanation. Taxpayer complained that the Department's denial letter did not specify "a date in which the rejected claim needs to be resubmitted to the [Department]." Taxpayer explained that "there is no mention of a date or timeframe in which the claim can be submitted." Taxpayer further claimed that a follow-up February 2021 letter never indicated the claim for refund had been denied. Taxpayer concludes:

Whoever was reviewing the claim should have reached out and tried to work with us to obtain documentation. Also, since there is not a rejection letter included with this letter, I would assume this refund claim is still open.

Although Taxpayer asked for a "settlement without a hearing or a final determination," the Department nonetheless scheduled a phone hearing in order to better understand Taxpayer's protest and in order to allow Taxpayer to explain how it would settle the matter. However, Taxpayer decided not to take part in the hearing and did not explain its proposed settlement offer. The Department concluded that Taxpayer's complaint warranted a written response. This Final Order Denying Refund results.

I. Gross Retail Tax - Sales Tax Refund.

DISCUSSION

The issue is whether Taxpayer has established that it is entitled to a refund of sales tax paid during the years 2016 and 2017.

Where, as here, a taxpayer is challenging the taxability of Indiana sales transactions, the 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). When an agency is charged with enforcing a statute, 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).

Taxpayer maintains that the Department misled Taxpayer or failed to properly inform Taxpayer of the statutory and administrative procedures necessary to obtain a refund of sales tax.

Taxpayer apparently does not disagree that its first refund claim was insufficient. In part, IC § 6-8.1-9-1(a) plainly states that a viable "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." The GA-110L also contains written requirements for filing a refund.

For a refund to be valid, it must meet the statutory requirements of a claim for refund and at a minimum include:

- (1) the refund amount;
- (2) the tax period for which the refund is due;
- (3) the reason for the refund; and
- (4) the taxpayer's signature.

If your claim does not include these items, it will be rejected.

In Taxpayer's case, the GA-110L was signed but nothing else was provided. Subsequently, Taxpayer submitted a follow-up GA-110L dated December 2019. However, this second claim sought a more limited refund for the years 2018 and 2019. This was apparently a portion of the refund amount the Department did return Taxpayer.

It is not certain when - or if - Taxpayer submitted yet another combined or separate claim for 2016 and 2017. Whatever claim or whenever it was filed, the Department determined that the request was untimely. Taxpayer now maintains that this was an error entirely attributable to the Department's actions or failures to take action.

The documentation provided by Taxpayer is unclear, but there is nothing on the face of the argument establishes that the timing issue was attributable to mishandling by the Department. However, what is clear is that both the Department and Taxpayer are bound by the statute. IC § 6-8.1-9-1(a) requires:

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), (k), (l), (m), and (n), 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.

Under this provision, the Department may not randomly grant tax refunds requested outside the three-year limitations period. To do so would necessarily favor one particular taxpayer while disfavoring another. Equally, a taxpayer cannot expect to receive a refund submitted outside that same limitations period.

It changes nothing, but it is fair to point out that the Department's original letter invited Taxpayer to call the

Department's "Individual Refunds" section and provided the phone number for that section "[i]f you have any questions"

As to Taxpayer's request to "settle" the disputed refund amount, the Department finds nothing to consider; there is no explanation of the terms of such a settlement and no explanation *why* the Department should come to such an agreement.

FINDING

Taxpayer's protest is respectfully denied.

March 18, 2022

Posted: 05/25/2022 by Legislative Services Agency
An [html](#) version of this document.