

Note: The appeal period has expired, pursuant to Iowa Admin. Code rule 701-7.17(8)(d) the Administrative Law Judge's proposed decision is adopted as the final decision by the Department.

Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

IN THE MATTER OF:

DIA Docket No. 19IDR0029
Rev. No. 2014-300-2-0099

DAVID SCHULTZ
16943 Diplomat Road
Luana, Iowa 52156

PROPOSED DECISION

Sales/Use Tax.

STATEMENT OF THE CASE

David Schultz filed a protest of the Department of Revenue's decision dated February 24, 2014 denying his claim for a sales tax refund. This matter came on for hearing at the Wallace State Office Building in Des Moines, Iowa on July 30, 2019. David Schultz appeared self-represented and participated. Hristo Chaprazov and Katherine Penland of the Attorney General's office represented the Department of Revenue (the Department).

Exhibits marked 1 and 3-29 submitted by Mr. Schultz were admitted into the record. The Department submitted exhibits A through E that were also admitted. Official notice was taken of the administrative file.

FINDINGS OF FACT

David Schultz entered into a "Housing Enterprise Zone Program Agreement" (Agreement) with the Iowa Department of Economic Development and the Clayton County Board of Supervisors effective May 21, 2007 for a project described as "07-HEZ-044" (the project). The purpose of the Enterprise Zone Program is to promote new economic development in economically distressed areas by giving tax incentives and assistance to eligible housing businesses with projects located in a certified "Enterprise Zone." (Exhibit D).

As an eligible housing business, Schultz's business was eligible to receive "a refund of sales, service and use taxes paid by an eligible business, including an eligible business acting as a contractor or subcontractor as authorized in Iowa Code section 15.331A." The Agreement informed Schultz that in order to receive a refund of the sales, services and use taxes paid, he "must, within one year after Project Completion, make an application to [the Department.]" (Exhibit D).

Schultz filed a claim for refund for the project on December 31, 2013. On his claim for refund, he listed the final settlement date of the contract as April 13, 2010. Accordingly, the Department concluded it was untimely filed and denied his claim. Schultz filed a timely protest of the Department's decision (Exhibits A, C; Campbell Testimony).

CONCLUSIONS OF LAW

The issue to be decided in this matter is whether the Department properly denied Schultz's request for a refund on sales/use tax paid in connection with a construction project. It is Schultz's burden to prove the Department erroneously denied the claim.¹


In an effort to increase employment in certain areas of the state, the legislature authorized certain eligible businesses to receive certain tax benefits for investing a certain amount of capital or creating jobs.² Per statute, an eligible business shall be entitled to a refund of the sales and use taxes paid for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility that is part of a project of the eligible business.³

To receive a refund, the business is required to, not more than one year after completion, make application to the Department for any refund of the amount of sales and use taxes paid.⁴ It is undisputed that Schultz failed to file his claim of refund within one year of the subject project's completion date. Accordingly, the Department was required to deny the claim as untimely.

Schultz raised several arguments regarding his belief that the Department and/or the Iowa Economic Development Authority administered the program at issue unfairly. While the undersigned administrative law judge carefully reviewed the evidence and testimony submitted by Schultz and understands his frustrations, neither the undersigned nor the Department has the authority to circumvent Iowa law regarding the deadline in which to file a claim for refund. For this reason, the Department's decision must be upheld.

The Department's action is hereby AFFIRMED. The Department shall take any action necessary to implement this decision.

Dated this October 7, 2019.



Kristine M. Dreckman
Administrative Law Judge

¹ 701 Iowa Administrative Code (IAC) 7.17(11)(d).

² See Iowa Code § 15.329.

³ Iowa Code § 15.331A(1).

⁴ Iowa Code § 15.331A(2).

cc: Hristo Chaprazov and Katherine Penland (via email)
David Schultz (via email)

NOTICE

Pursuant to 701 Iowa Administrative Code 7.17(8)(d), this order becomes the final order of the Department for purposes of judicial review or rehearing unless a party files an appeal to or review on motion of the director with 30 days of the date of this order, including Saturdays, Sundays and legal holidays, of the date of this Proposed Decision to file an appeal to the Director of the Department of Revenue. The appeal shall be directed to:

Office of the Director
Iowa Department of Revenue
Hoover State Office Building
Des Moines, Iowa 50319