

## COMMISSIONER'S DIRECTIVE #25

July 2004

**DISCLAIMER:** Commissioner's Directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore the information provided herein should only serve as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUBJECT:** Elimination of Form ST-137, Certificate of Exemption for an Out-of-State Delivery of Motor Vehicle, Manufactured Home, Aircraft, Watercraft or Trailer to be Registered and/or Titled Outside the State of Indiana

### I. INTRODUCTION

Effective July 1, 2004, the ST-137 Form is no longer an effective document for out of state purchasers to claim an exemption from Indiana sales tax for purchases of motor vehicles, manufactured homes, aircraft, watercraft or trailers to be titled or registered outside the State of Indiana.

### II. STATUTORY CHANGES

Effective July 1, 2004, IC 6-2.5-3-5 has been amended to delete the language that denied credit against Indiana use tax for sales and use tax paid to another state on the purchase of vehicles, watercraft or aircraft.

Additionally, IC 6-2.5-5-15 has been repealed as of the same effective date. IC 6-2.5-5-15 allowed an exemption from sales and use tax on the purchase of motor vehicles, trailers, watercraft or aircraft to be taken out of state. Both of these provisions are contained in HEA 1365-2004.

These changes were implemented in response to a Tax Court case, Bradley J. Rhoades v. Indiana Department of State Revenue, 774 N.E.2d 1044 (Ind. Tax 2002), which declared

the denial of a credit for sales and use tax paid to another state on the purchase of a vehicle was unconstitutional.

### **III. SCOPE OF CHANGE**

The repeal of IC 6-2.5-5-15 only affects situations where the purchaser takes possession of the vehicle prior to taking the vehicle out of state.

This repeal does not affect out of state sales by Indiana dealers. For a sale of a vehicle to be considered out of state, the purchaser must take possession via delivery outside of Indiana. No exemption certificate is required when making an out of state sale. However, the sales contract must specify that the vehicle is to be delivered out of state and the dealer must maintain shipping documentation to verify that the vehicle was delivered to the purchaser at a specific out of state location.



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Kenneth L. Miller  
Commissioner