

**Letter of Findings Number: 05-0212**  
**Sales Tax**  
**For Tax Year 2004**

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**ISSUE**

**I. Sales Tax—Auto Sales**

**Authority:** IC § 6-8.1-5-1

Taxpayer protests the assessment of sales tax.

**STATEMENT OF FACTS**

Taxpayer operates a small car dealership. As the result of an investigation, the Indiana Department of Revenue ("Department") issued a proposed assessment for sales tax for the tax year 2004. The Department determined that taxpayer should have been collecting sales tax on some of its sales of automobiles. Taxpayer protests the assessment. Further facts will be supplied as required.

**I. Sales Tax—Auto Sales**

**DISCUSSION**

Taxpayer protests the imposition of sales tax on those vehicles upon which the Department determined that taxpayer should have collected sales tax. The Department notes that, under IC § 6-8.1-5-1(b), a notice of proposed assessment is prima facie evidence that the claim for the unpaid tax is correct and that the burden of proving the proposed assessment wrong rests with the person against whom the proposed assessment is made.

As part of this protest, taxpayer provided documentation for most of the vehicles in question. Taxpayer was unable to produce documentation for one of its customers and accordingly sent a check for \$775.00 to cover the sales tax connected with that customer's purchases. Taxpayer protests that it should not be liable for the sales tax on the remaining sales.

IC § 6-8.1-5-1(b) places the burden of proving a proposed assessment wrong on the one against whom the assessment is made. Taxpayer has provided documentation explaining most of the sales and has paid the amount of sales tax on the remaining sales. Taxpayer has met the burden placed on it by IC § 6-8.1-5-1(b).

**FINDING**

Taxpayer's protest is sustained.

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