

DEPARTMENT OF STATE REVENUE

04-20180633R.ODR

**Final Order Denying Refund: 04-20180633R
Gross Retail Tax
For the Year 2017**

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

Out-of-State Dealership did not provide documentation clarifying key aspects of a vehicle transaction with an Indiana Resident, thus the Dealership's protest cannot be sustained.

ISSUE

I. Gross Retail Tax - Out-of-State Vehicle Sales.

Authority: Sales Tax Information Bulletin 28S (March 2017).

Taxpayer protests the denial of refund of gross retail tax.

STATEMENT OF FACTS

In September 2017, Indiana resident ("Resident") purchased a vehicle from a Kentucky car dealership ("Dealership"). According to Dealership, they collected and paid sales tax to Kentucky, however their title clerk also "wrote a check to [the] Indiana BMV to pay for the sales tax." In October of 2017, Resident filed a GA-110L ("Claim for Refund") with the Indiana Department of Revenue ("Department") asking for a refund of approximately \$1,800. In explanation of the claim, Resident stated that "sales tax was already paid to state of Kentucky, [Dealership] sent check by error." The Claim for Refund is signed by Resident, but the email contact provided is that of an employee of Dealership.

In January of 2018, the Department denied Resident's Claim for Refund, stating that "The [C]laim for [R]efund did not include information necessary for the Department to verify the claim. We contacted you [December 4, 2017] advising that additional supporting documentation must be received by this office within twenty (20) days. We did not receive the additional documentation necessary to process the claim."

Following the denial of the Claim for Refund, Dealership filed a timely protest with the Department. Accompanying the protest was the Protest Submission form, filled out and signed by Resident indicating that he wished to have a final determination issued *without* a hearing. This Order results. Additional facts will be provided as necessary.

I. Gross Retail Tax - Out-of-State Vehicle Sales.

DISCUSSION

The Department denied Resident's Claim for Refund due to a lack of verifying documentation. Dealership claimed that they did not provide verifying documentation because the title clerk who presumably handled the sale no longer works for them. The Department attempted to contact Dealership's "Title Team Lead," but did not get a response.

There are several issues with the protest at hand. First, it is unclear as to who the taxpayer is in this scenario. Information has not been provided to establish which party actually paid the Indiana sales tax. It is possible that Dealership collected both Kentucky and Indiana tax from Resident and paid both states with Resident's money. It is also possible that Dealership collected Kentucky tax from Resident, paid Kentucky and then erroneously remitted sales tax to Indiana out of its own funds. Dealership provided the Department with a copy of the check which clearly shows that it cut a check to the Indiana BMV, but the source of that money is unclear. Therefore, the Department cannot establish who has proper standing in this protest.

It is also unclear where the sale actually occurred. If Resident purchased and drove the vehicle off of Dealership's

lot in Kentucky, the sale occurred in Kentucky. If the vehicle was delivered to Resident's Indiana home, it may be sourced to either state, depending on the terms of delivery. Sales Tax Information Bulletin 28S (March 2017), 20170426 Ind. Reg. 0451170210NRA.

Without more clarifying information, the Department's initial denial is correct. Dealership's protest is denied.

FINDING

Dealership's protest is respectfully denied.

April 9, 2018

Posted: 06/27/2018 by Legislative Services Agency
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