

**Final Order Denying Refund: 04-20182183R
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

Missouri Resident was not entitled to a refund of sales tax assessed on the purchase of a vehicle from an Indiana car dealer; the car dealer correctly charged Indiana sales tax based on Missouri Resident's representation that the vehicle would be titled and registered in Missouri.

ISSUE

I. Gross Retail Tax - Vehicle Purchase.

Authority: IC § 6-2.5-2-3(b); Sales Tax Information Bulletin 84 (August 2014).

Taxpayer argues that he is entitled to a refund of Indiana sales tax paid on the purchase of an automobile.

STATEMENT OF FACTS

Taxpayer is an out-of-state resident currently living in Missouri. Taxpayer's original vehicle was damaged in an accident. His insurance company issued Taxpayer a payment reflecting the total value of the vehicle. Taxpayer then purchased an automobile from an Indiana car dealer using the insurance proceeds. At the time of the purchase, the Indiana car dealer charged Taxpayer approximately \$250 in Indiana sales tax. According to Taxpayer, the dealer based the \$250 charge on Missouri's 4.225 percent vehicle sales tax. Taxpayer stated that the dealer informed him that the \$250 would be sent to the Missouri tax authorities and that he could then file for a \$250 refund from the Missouri tax authorities.

Taxpayer filed a \$250 refund claim with Missouri Department of Revenue. The refund claim was denied and Taxpayer appealed the decision with the Missouri tax authorities. Taxpayer's Missouri appeal was denied. Thereafter, Taxpayer submitted a GA-110L claim for refund with the Indiana Department of Revenue ("Department"). In a letter dated September 2018, the Department denied the refund explaining as follows:

Regarding sales of vehicles to individuals that intend to title and register the vehicle for use in another state: the Indiana sales tax rate imposed on such a transaction is the state-level sales tax rate of the state where the vehicle will be titled and registered. Please be advised: Departmental documents indicate the state of Missouri has a sales tax rate of 4.225[percent] on vehicles. Paperwork submitted with the claim indicates the taxpayer paid sales tax at 4.225[percent] on the vehicle.

Taxpayer disagreed with the Department's decision denying the refund and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayer explained the basis for the protest. This Final Order Denying Refund results.

I. Gross Retail Tax - Vehicle Purchase.

DISCUSSION

The issue is whether Taxpayer has established that he is entitled to a refund of Indiana sales tax paid on the purchase of a vehicle from an Indiana dealership.

The issue raised by Taxpayer is governed by IC § 6-2.5-2-3(b) which provides as follows:

Notwithstanding section 2 of this chapter, the state gross retail tax rate on a motor vehicle that a purchaser intends to:

- (1) transport to a destination outside Indiana within thirty (30) days after delivery; and
 - (2) title or register for use in another state or country;
- is the rate of that state or country (excluding any locally imposed tax rates) as certified by the seller and purchaser in an affidavit satisfying the requirements of subsection (c).*

(Emphasis added).

The Department's Sales Tax Information Bulletin 84 (August 2014), 20140827 Ind. Reg. 045140329NRA), explains here as relevant:

Beginning on July 1, 2014, when the purchaser of a motor vehicle intends to both (a) transport that motor vehicle to a destination outside Indiana within 30 days after delivery, and (b) title and register that motor vehicle for use in another state or country, *the rate at which sales tax is to be imposed and collected on the sale is the rate of the intended destination state or country.*

The sales tax rates of the other states are inclusive of only state-level rates. Any locally imposed sales tax rates in the other states are not included in the rates Indiana dealers will be required to collect. Additionally, the statutory language of IC [§] 6-2.5-2-3 requires the application of the destination state's state-level sales tax rate only to the sale of a motor vehicle that is to be titled and registered for use in another state. Accordingly, the destination state's sales tax rate is the only aspect of that state's laws that will be incorporated by virtue of IC [§] 6-2.5-2-3. The statute does not require the incorporation of other aspects of a state's laws relating to transactions involving vehicles.

(Emphasis added).

Taxpayer purchased a vehicle from an Indiana car dealer. Since Taxpayer's car was to be "titled and registered for use in another state" and Taxpayer apparently "certified" that the vehicle was destined for use in Missouri, the dealer charged Taxpayer Indiana sales tax based on the destination state's rate of 4.225 percent.

However - based on Taxpayer's explanation - the dealer represented to Taxpayer that the \$250 would be paid to the Missouri tax authorities and that Taxpayer was entitled to claim a refund of that amount from Missouri. The dealer was wrong. As with any other Indiana car sale, the dealer charged Indiana sales tax on a transaction which occurred in Indiana. Although the dealer collected Indiana sales tax, the rate charged was based on the destination state's rate.

Taxpayer argues that since he used the insurance proceeds to pay for the replacement vehicle, Missouri would not have charged sales tax if the transaction had occurred in Missouri. Presumably, Taxpayer argues his purchase was exempt under Missouri law. Perhaps so, but Indiana does not follow Missouri law in this respect. As explained in Sales Tax Information Bulletin 84, "the destination state's sales tax rate is the *only aspect* of that state's laws that will be incorporated by virtue of [IC 6-2.5-2-3](#)."

(Emphasis added).

Since Taxpayer has not established that his vehicle was exempt from Indiana's sales tax, Taxpayer is not entitled to a refund of the \$250.

FINDING

Taxpayer's protest is respectfully denied.

January 24, 2019

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