

## DEPARTMENT OF STATE REVENUE

04-20191032R.MOD

**Memorandum of Decision: 04-20191032R**  
**Sales Tax**  
**For Tax Year 2016**

**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 is provided for the convenience of the reader and is not part of the analysis contained in this document.

**HOLDING**

Company provided documentation supporting its refund claim. Thus Company is entitled to its refund.

**ISSUE**

**I. Gross Retail Tax - Vehicle Sales.**

**Authority:** IC § 6-2.5-2-1; IC § 6-8.1-9-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the Department's refund denial.

**STATEMENT OF FACTS**

Taxpayer is a vehicle titling company based in Florida and does business in other states including Indiana. Taxpayer works with dealerships and customers to title and plate vehicles for customers. Taxpayer pays the sales tax and registration for its customers and receives payment for that service. Taxpayer requested a refund for sales tax paid on behalf of customer ("Customer"). The Indiana Department of Revenue ("Department") denied the refund request in full because only the customer, or those who created the taxable event, are allowed to receive a refund for sales tax paid on a vehicle.

Taxpayer disagreed with the refund denial and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayer explained the basis for its protest. This Memorandum of Decision results.

**I. Gross Retail Tax - Vehicle Sales.**

**DISCUSSION**

The Department notes that, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

IC § 6-8.1-9-1(a) states:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (j) and (k), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

Sales tax is imposed by IC § 6-2.5-2-1, which states:

- (a) An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana.
- (b) *The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. The retail merchant shall collect the tax as agent for the state.* (Emphasis added).

Taxpayer requested a refund based on the incorrect trade-in value of the car; Taxpayer argued that the trade-in value was incorrectly reported on the Indiana Bureau of Motor Vehicles ("BMV") registration causing an increase in Indiana sales tax due. Taxpayer explains that it provided the service of registering Customer's vehicle in Indiana, including payment of tax at the time of registration. Taxpayer believes that, since it paid the tax at the time of registration and since it determined that Customer's trade-in value was not properly credited against the purchase price of Customer's new vehicle, it should receive a refund of tax based on the reduced purchase price. In support of its position, Taxpayer provided documentation showing the purchase price of Customer's new vehicle and the trade-in value of Customer's prior vehicle. Taxpayer also provided proof that Customer was properly refunded of the portion of sales tax it is requested.

After review of the materials provided, the Department agrees with Taxpayer's protest. Taxpayer provided sufficient documentation that the trade in value of the vehicle was incorrectly stated on the BMV registration. Also Taxpayer provided proof of sales tax was refunded to Customer. Thus, Taxpayer is entitled to the full amount of refund requested.

### FINDING

Taxpayer's protest is sustained.

October 31, 2019

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