

Final Order Denying Refund: 04-20210026
Sales Tax
For the 2020 Tax Year

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

The Department correctly collected sales tax on the purchase of a motor vehicle in Indiana. Individual's refund claim is denied.

ISSUE

I. Sales Tax - Imposition.

Authority: IC § 6-2.5-1-2; IC § 6-2.5-2-1; IC § 6-2.5-2-3; IC § 6-2.5-4-1; *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 84 (July 2020).

Taxpayer requests a refund of sales tax on her purchase of a motor vehicle.

STATEMENT OF FACTS

Taxpayer is an individual who purchased a vehicle in Indiana before taking the vehicle to be registered in Mississippi. At the time of purchase, a five percent sales tax was withheld by the dealership, who told the Taxpayer that this money would be remitted to Mississippi by the state of Indiana. Taxpayer filed a refund claim for the withheld sales tax, stating that she was required to pay tax on her vehicle purchase again in Mississippi. This refund claim was denied and Taxpayer filed a subsequent protest. An administrative hearing was held and this Final Order Denying Refund results. Additional facts will be provided as necessary.

I. Sales Tax - Imposition.

DISCUSSION

When registering her vehicle in Mississippi, Taxpayer paid use tax based on the purchase price, even though the dealership in Indiana withheld sales tax and remitted that tax to the Indiana Department of Revenue ("Department"). The requested refund is for sales tax which Taxpayer believes the Department improperly collected.

As a threshold issue, "when [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 are entitled to deference.

Indiana imposes an excise tax called "the state gross retail tax" (or "sales tax") on retail transactions made in Indiana. IC § 6-2.5-2-1(a); [45 IAC 2.2-2-1](#). A retail transaction is a transaction made by a retail merchant that constitutes "selling at retail." IC § 6-2.5-1-2(a). Selling at retail occurs when a person "(1) acquires tangible personal property for the purpose of resale; and (2) transfers that property to another person for consideration." IC § 6-2.5-4-1(b). A person who acquires tangible personal property in a retail transaction (a "retail purchaser") is liable for the sales tax on the transaction. IC § 6-2.5-2-1(b). The purchaser in general "shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction." *Id.* "The retail merchant shall collect the tax as agent for the state." *Id.*

Sales of vehicles in Indiana generally are subject to Indiana sales tax unless the transactions are specifically exempt under Indiana law. The sales tax treatment of a vehicle changes slightly, however, when the vehicle is purchased to be immediately transported out of state for use outside of Indiana. IC § 6-2.5-2-3 explains the tax implications of this situation:

(a) As used in this section, "motor vehicle" means a vehicle that would be subject to the vehicle excise tax imposed under [IC 6-6-5](#) if the vehicle were to be used in Indiana.

(b) 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).

(c) The department of state revenue shall prescribe the form of the affidavit required by subsection (b). In addition to the certification required by subsection (b), the affidavit must include the following:

(1) The name of the state or country in which the motor vehicle will be titled or registered.

(2) An affirmation by the purchaser under the penalties for perjury that the information contained in the affidavit is true.

(3) Any other information required by the department of state revenue for the purpose of verifying the information contained in the affidavit.

(d) The department may audit affidavits submitted under this section and make a proposed assessment of the amount of unpaid tax due with respect to any incorrect information submitted in an affidavit required by this section.

(Emphasis added).

Specifically, IC § 6-2.5-2-3 allows purchasers who purchase qualified motor vehicles in Indiana but intend to title and register the vehicles to be used in states other than Indiana (within 30 days after the sale) to pay the sales tax rate of the state for which the vehicles are ultimately titled, registered, and used. The Department's Sales Tax Information Bulletin 84 (July 2020), 20200826 Ind. Reg. 045200440NRA ("Information Bulletin 84") further explains the computation of the sales tax concerning the qualified Indiana sales.

INTRODUCTION

As a general matter, the sales tax rate imposed on all retail transactions in Indiana is [seven (7) percent]. However, the General Assembly has enacted legislation (SEA 367 (2014)) specifically directed toward the sales of vehicles to individuals or entities that intend to title and register the vehicle for use in another state or country. Effective July 1, 2014, *Indiana sales tax is imposed at a special rate on such sales, which is the state-level sales tax rate of the state in which the vehicle will be titled and/or registered.*

. . . .

DEFINITION

The term "motor vehicle" means a vehicle that would be subject to the annual license excise tax imposed under [IC 6-6-5](#) if the vehicle were to be used in Indiana. This includes cars, motorcycles, and trucks weighing 11,000 pounds or less. This does not include motor homes; trucks weighing greater than 11,000 pounds; or trailers.

DETERMINATION OF THE SPECIAL TAX RATE

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 Indiana 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 provided communications showing that the dealership informed her that they had paid sales tax to Mississippi. While the dealership did correctly collect and remit sales tax at the Mississippi sales tax rate, that

money was not subsequently remitted to Mississippi, as provided by IC § 6-2.5-2-3(b). Indiana charges its own sales tax on the purchase of a motor vehicle in the state, even if that vehicle is subsequently registered in another state. Although Taxpayer provided a Mississippi registration, which showed use tax paid on the same vehicle purchase, this tax is separate from the Indiana sales tax owed on the transaction. Taxpayer correctly paid Indiana sales tax at the special rate for her purchase of a vehicle in Indiana to be registered in Mississippi. Whether Mississippi correctly charged use tax on the vehicle upon registration in Mississippi is a question for the Mississippi Department of Revenue.

FINDING

Taxpayer's refund request is respectfully denied.

July 27, 2021

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