

**Final Order Denying Refund: 04-20211020**  
**Sales and Use Tax**  
**for Tax Year 2021**

**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**

Individual was not entitled to a refund of use tax paid to Indiana on the purchase of a vehicle. The vehicle was purchased in another state and sales tax was paid to that state. Any overpayment of that sales tax must be claimed from that state.

**ISSUE**

**I. Sales and Use Tax - Sales Tax Paid in Another State.**

**Authority:** IC § 6-2.5-3-5; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

**STATEMENT OF FACTS**

Taxpayer submitted a request for refund of Indiana use tax paid to the Indiana Bureau of Motor Vehicles ("BMV"). The Indiana Department of Revenue ("Department") denied Taxpayer's refund claim. Taxpayer protested the Department's decision and requested a final determination without an administrative hearing. This Final Order Denying Refund results. Additional facts will be provided as necessary.

**I. Sales and Use Tax - Sales Tax Paid in Another State.**

**DISCUSSION**

Taxpayer is an Indiana resident who purchased a vehicle from an Ohio dealer ("Dealer") in 2021. The Ohio sales tax rate was 5.75 percent. Taxpayer registered the vehicle in Indiana, which had a sales tax rate of seven percent. When Taxpayer registered the vehicle in Indiana, he was assessed tax totaling 1.25 percent, the difference between the Ohio and Indiana sales tax rates. Taxpayer protested the imposition of the 1.25 percent Indiana tax.

Taxpayer argues that he paid the full seven percent Indiana sales tax rate to Dealer at the time of purchase, therefore the BMV incorrectly assessed tax in the amount of 1.25 percent of the vehicle purchase price. To support his protest, Taxpayer provided the Bill of Sale confirming seven percent of the vehicle purchase price was paid in sales tax to Dealer. Taxpayer also provided his BMV Customer Transaction Receipt confirming 1.25 percent of the vehicle purchase price paid in use tax to the BMV.

As a threshold issue, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. "[W]hen [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation of another party.'" *Dept. of State Revenue v Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

The vehicle was purchased in Ohio and Taxpayer took possession of the vehicle at the dealership in Ohio. Taxpayer paid sales tax to Dealer totaling seven percent of the vehicle purchase price. Thereafter, Taxpayer titled the vehicle in Indiana. At that time, the BMV assessed Indiana tax but provided Taxpayer a "credit" for tax paid in Ohio pursuant to IC § 6-2.5-3-5 which provides:

A person is entitled to a credit against the use tax imposed on the use, storage, or consumption of a particular item of tangible personal property equal to the amount, if any, of sales tax purchase tax, or use tax paid to another state, territory, or possession of the United States for the acquisition of that property.

After review of Taxpayer's argument and documentation, the Department is unable to agree with Taxpayer's position. Taxpayer purchased the vehicle in Ohio. The Ohio sales tax rate at the time of purchase was 5.75 percent. Dealer collected Ohio state sales tax totaling seven percent of the vehicle purchase price at the time of sale. Dealer is not an Indiana retail merchant and does not remit Indiana sales tax to Indiana on sales transactions that take place in Ohio.

Although the documentation shows that Dealer collected seven percent sales tax, none of that sales tax was paid to Indiana. Therefore, the Indiana BMV was correct to require Taxpayer to pay Indiana the 1.25 percent difference between Ohio and Indiana's sales tax and use tax rates. If Taxpayer has any remedy for the difference between Ohio's 5.75 percent sales tax rate and the seven percent the Dealer collected, that remedy rests with Ohio.

### FINDING

Taxpayer's protest is denied.

August 11, 2022

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