

**Letter of Findings: 04-20210045**  
**Individual Indiana Use Tax**  
**For the Year 2018**

**NOTICE:** IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

### HOLDING

Taxpayer is an individual who was assessed for use tax. Taxpayer has met his burden of proof that the assessment was incorrect.

### ISSUE

#### **I. Consumer Use Tax - Vehicle Registration.**

**Authority:** IC § 6-2.5-3-2; IC § 6-8.1-5-1; *City of Kokomo v. Est. of Newton*, 136 N.E.3d 1172 (Ind. Ct. App. 2019); *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); [45 IAC 2.2-3-5](#).

Taxpayer protests the assessment of use tax owed for the titling of a motor vehicle.

### STATEMENT OF FACTS

Taxpayer is an Indiana resident. Taxpayer purchased a vehicle in 2017 in Illinois, listing both himself and his company as co-owners. Taxpayer later sold his company and kept the vehicle in his possession. Taxpayer then moved to Indiana and registered the vehicle in Indiana under his name.

The Indiana Department of Revenue's ("Department") review found the registration was a transaction and resulted in a proposed assessment of additional 2018 Indiana use tax. Taxpayer protested the assessment and requested an administrative hearing. This Letter of Findings results. Additional facts will be provided as necessary.

#### **I. Consumer Use Tax - Vehicle Registration.**

### DISCUSSION

Taxpayer protests the assessment of use tax owed for the titling of a motor vehicle. In that claim, Taxpayer states that the car was his personal vehicle since the original purchase date in 2017. Taxpayer claims that the vehicle was registered under both his name and his company's name for liability reasons. Taxpayer sold his business in 2018 and registered the vehicle under his name in Indiana.

The Department examined the title transaction and determined that the vehicle was obtained by Taxpayer in 2018 with a zero-selling price. Taxpayer was listed as an employee of his company. His company was listed as the seller, which, combined with the "zero" listed under selling price, caused the Department to view this as a non-arm's length transaction. The Department determined that the vehicle title transfer should have been transacted and reported at fair market value. The market value listed for the vehicle is \$30,000. The Department used the best information available to acquire the fair market value.

As a threshold issue, it is the taxpayer's responsibility to establish that the existing tax assessment is incorrect. A proposed assessment is prima facie evidence that DOR's claim for the unpaid tax is valid. IC § 6-8.1-5-1(c). The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. *Id.*; See e.g., *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012) and *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind.

Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[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 shall be entitled to deference.

According to IC § 6-2.5-3-2:

(a) An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

(b) The use tax is also imposed on the storage, use, or consumption of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or watercraft:

- (1) is acquired in a transaction that is an isolated or occasional sale; and
- (2) is required to be titled, licensed, or registered by this state for use in Indiana.

[45 IAC 2.2-3-5](#)(a) states:

For purposes of the state gross retail tax and use tax, transactions representing isolated or occasional sales of vehicles required to be licensed by the state for highway use in Indiana shall constitute retail transactions under the provisions of this section. Every sale by a resident or nonresident person who is not a retail merchant as defined in this act of a vehicle required to be licensed by the state for highway use in Indiana shall be deemed a retail transaction and the use of such vehicle shall be subject to the use tax which shall be paid by the purchaser to the Bureau of Motor Vehicles at the time of the licensing of the vehicle by the purchaser.

Therefore, the Department viewed the transaction at issue to have been an isolated sale which did not require the collection of sales tax by the seller, but which did require the payment of use tax by the purchaser.

In the course of the protest process, Taxpayer provided documentation to establish that he was an owner of the vehicle since its purchase in 2017. Therefore, there has not been a transaction that requires the imposition of use tax. Taxpayer has met the burden of proving that the proposed assessment incorrect, as required by IC § 6-8.1-5-1(c).

## FINDING

Taxpayer's protest is sustained.

March 6, 2023

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