

**Final Order Denying Refund: 04-20231134
For the 2022 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 denied a claim for refund of Indiana sales tax when Dealer used the Arkansas sales tax rate to collect Indiana sales tax on the purchase of a motor vehicle by a non-resident.

ISSUE**I. Sales Tax - Refund.**

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; *Arkansas Legislative Tax Handbook*, <https://www.arkleg.state.ar.us/Committees/Document?type=pdf&source=2023%2FSummary+Budget+Manuals&filename=Tax+Handbook+2022>; *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 protests the denial of refund regarding the sales tax collected at the time of Taxpayer's purchase of a motor vehicle in Indiana, after Dealer told Taxpayer that he would be refunded.

STATEMENT OF FACTS

Taxpayer is an Arkansas resident. Taxpayer purchased a vehicle at an Indiana dealership ("Dealer"). Dealer collected six and one-half percent sales tax on the transaction, which is the sales tax rate of Taxpayer's home state of Arkansas.

Taxpayer then registered the vehicle in Arkansas, where he was required to pay tax on the vehicle. Taxpayer then filed a claim with the Indiana Department of Revenue ("Department") for a refund of the Indiana sales tax paid to Dealer at the time of purchase in Indiana. The Department denied this request and Taxpayer filed a subsequent protest and requested resolution with a hearing. An administrative hearing was held and this Final Order Denying Refund results.

I. Sales Tax - Refund.**DISCUSSION**

In February 2022, Taxpayer purchased a vehicle in Indiana. Taxpayer and his wife flew to Indiana to purchase the motor vehicle and then drove the vehicle back to Arkansas. When Taxpayer registered the vehicle in Arkansas, he was informed that he needed to pay tax on the vehicle as Arkansas does not allow credit for sale tax paid to another state. Taxpayer states that he then contacted Dealer and was told that he needed to fill out a Form GA-110L (Claim for Refund) and that he would be refunded the sales tax.

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 person 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 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 0367-2014) 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, the sales tax rate imposed on such sales is the state-level sales tax rate of the state in which the vehicle will be titled and/or registered.

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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 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 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).

Arkansas' sales tax rate is six and one-half percent. *Arkansas Legislative Tax Handbook*, <https://www.arkleg.state.ar.us/Committees/Document?type=pdf&source=2023%2FSummary+Budget+Manuals&filename=Tax+Handbook+2022> (last visited March 14, 2023). Dealer correctly collected six and one-half percent sales tax reflecting Arkansas' rate, as provided by IC § 6-2.5-2-3.

While Dealer correctly collected Indiana sales tax at the Arkansas rate, Taxpayer was misinformed by Dealer about the possibility of a refund of the sales tax collected in Indiana. Thus, Taxpayer is incorrect regarding how Indiana imposes sales tax on the purchase of vehicles by out-of-state residents. While Indiana allows out-of-state residents to purchase a vehicle in Indiana at the sales tax rate of their home state, it is still Indiana sales tax, as provided by IC § 6-2.5-2-1(b). The Department is unable to refund sales tax that was properly collected on an Indiana transaction. Taxpayer is therefore not entitled to the claimed sales tax refund.

FINDING

Taxpayer's protest is denied.

March 30, 2023

Posted: 05/24/2023 by Legislative Services Agency
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