

DEPARTMENT OF STATE REVENUE

04-20221042.ODR; 04-20221043.ODR
04-20221044.ODR; 04-20221045.ODR**Final Order Denying Refund Numbers**
04-20221042; 04-20221043; 04-20221044; 04-20221045
Sales/Use Tax
For The 2019 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

Out-of-State Business was not entitled to the refund of sales or use tax because Business failed to provide verifiable documents, such as Indiana Bureau of Motor Vehicles receipt with sales tax listed and proof of payment, to substantiate that it paid or overpaid the tax.

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

Authority: [IC 6-2.5-2-1](#); [IC 6-2.5-3-2](#); [IC 6-8.1-5-4](#); [IC 6-8.1-9-1](#).

Taxpayer protests the refund denial of sales or use tax which it claimed that it paid to the Indiana Bureau of Motor Vehicles at the time it registered and titled the vehicles on behalf of its clients.

STATEMENT OF FACTS

Taxpayer, an out-of-state company, provides services of registering and titling motor vehicles throughout the United States, including Indiana. In November 2021, Taxpayer filed four (4) refund claims (Claim Numbers 271254, 255943, 272514, and 255354) concerning sales/use tax paid to Indiana Bureau of Motor Vehicles ("BMV") in 2019.

Upon initial review, the Indiana Department of Revenue ("Department") denied all of the claims. Taxpayer protested the refund denials. Taxpayer requested that the Department make the final determination based on the supporting documents it submitted without an administrative hearing. This final determination results. Further facts will be provided as necessary.

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

Taxpayer claimed that it was entitled to the refund of sales and/or use tax paid on four vehicles at the Indiana BMV. Taxpayer stated that "[s]ales tax was paid at the time of tag and title" due to clerical errors.

The Department denied all of the refund claims because Taxpayer did not provide the requested supporting documents to substantiate its claims. Specifically, during the initial review of refund claims, the Department sent letters to Taxpayer requesting specific supporting documents to verify Taxpayer's refund claims. The letters in relevant part stated the following:

Taxpayer needs to submit a **copy BMV Receipt with sales tax listed and Proof of Payment** (Check Image, ACH Confirmation, etc.) to the BMV for vehicle [VIN number]. (**Emphasis added**).

Accordingly, the issue is whether Taxpayer substantiated its refund claims based on documents it submitted.

[IC 6-8.1-9-1\(a\)](#) affords a taxpayer a statutory right to file a claim for refund if the taxpayer determines that the taxpayer has paid more tax than the amount is legally due for a particular taxable period. To obtain the refund, the taxpayer is required to file the claim with the Department within three (3) years from the date of payment if that date is later than the due date of the return. "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." *Id.*

In addition, [IC 6-8.1-5-4](#)(a) requires that "[e]very person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records . . . including invoices, register tapes, receipts, and canceled checks."

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). Indiana also imposes a complementary excise tax called "the use tax" 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." [IC 6-2.5-3-2](#)(a). [IC 6-2.5-3-2](#)(b) further includes "the storage, use, or consumption of a vehicle" provided that "the vehicle [] (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."

Taxpayer, in this instance, claimed that it was entitled to the refund of sales/use tax paid on four (4) separate motor vehicles because of clerical errors. To support its refund claims, in addition to a "Form ST-108" and a "Form ST-105," Taxpayer provided the "Application for Certificate of Title for a Vehicle" for each vehicle at issue. Taxpayer also offered third-party invoices and bank transaction descriptions from its bank to support its "payment to agent." But Taxpayer did not provide any "copy BMV Receipt with sales tax listed and Proof of Payment" as requested. As such, Taxpayer's reliance of its supporting documents is misplaced.

Specifically, in this instance, Taxpayer's documents seemingly suggested that, in 2019, it hired and paid a third-party Indiana company as its agent ("Indiana Agent") to provide the services of registering and titling motor vehicles at the Indiana BMV. Taxpayer's supporting documentation demonstrated that, for each transaction in question, there were two separate charges stated on the billing statement when the Indiana Agent invoiced Taxpayer. They were: (1) a line item of "Registration | BMV Fee" or "Title Transfer | BMV Fee" and (2) a separate fee for services rendered, namely, an additional \$8 for "Registration | [Indiana Agent] Fee" or an additional \$10 for "Title Transfer | [Indiana Agent] Fee."

Upon a further review, the "Registration | BMV Fee" or "Title Transfer | BMV Fee" failed to substantiate the amount which Taxpayer claimed it paid to the Indiana BMV. In particular, Taxpayer requested refund of \$2,344.88 (Claim Number 271254), \$2,503.15 (Claim Number 255943), \$446.25 (Claim Number 272514), and \$2,503.15 (Claim Number 255354). None of the itemized fees listed on the Indiana Agent's invoices actually matched the amount claimed by Taxpayer. In other words, Taxpayer's supporting documentation, such as bank statements or the invoices it received from its Indiana Agent, simply demonstrated that Taxpayer probably paid its Indiana Agent for the services and fees paid at the Indiana BMV. But without the requested BMV Receipts for the four transactions and the proof of payment to substantiate the actual payments made to the Indiana BMV, the Department could not verify the claims and thus is not able to agree that Taxpayer was entitled to the refund concerning the four (4) motor vehicles in question.

In short, given the totality of the circumstances, in the absence of Indiana "BMV Receipt with sales tax listed and Proof of Payment" concerning each vehicle in question, the Department is not able to agree that Taxpayer was entitled to the refund.

FINDING

Taxpayer's protest is respectfully denied.

December 19, 2022

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