

**Final Order Denying Refund: 04-20221140
Gross Retail Tax
For the 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

Out-of-state Individual was not entitled to a refund of Indiana sales tax paid on her vehicle purchase because Individual purchased and took possession of the vehicle at Indiana Dealership's Indiana business location and because the dealer correctly charged Individual Indiana sales tax based on the Individual's home state's sales tax rate. The purchase of the vehicle was an Indiana sale subject to Indiana's sales tax.

ISSUE

I. Sales Tax - Indiana Tax Paid by Out-of-State Resident.

Authority: [IC 6-8.1-9-1](#); [IC 6-2.5-2-1](#); [IC 6-2.5-13-1](#); [IC 6-2.5-2-3](#); [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 84 (July 2020).

Taxpayer protests the denial of a refund requesting the return of sales tax paid on the purchase of a vehicle from an Indiana dealer.

STATEMENT OF FACTS

Taxpayer is an Arkansas resident who chose to purchase a car from an Indiana dealership. The dealership charged Taxpayer Indiana sales tax at the Taxpayer's home state's rate of 6.5 percent.

Taxpayer returned to Arkansas and attempted to register the vehicle in that state. According to Taxpayer, the Arkansas Motor Vehicle Commission indicated that Taxpayer was required to pay Arkansas sales tax.

Taxpayer submitted to the Indiana Department of Revenue ("Department") a form GA-110L "Claim for Refund" requesting a refund of approximately \$1,400 in Indiana sales tax. Taxpayer explained that "[w]hen I purchased my vehicle, I thought I had rolled my taxes into my financing and that the dealership would send it to my home state of Arkansas."

The Department denied the refund request explaining that, based on "[IC 6-2.5-2-3](#), if a motor vehicle is purchased from a registered Indiana dealer, the dealer must collect Indiana sales tax" and that the Indiana tax is calculated at "at the rate of the intended destination state or country"

The Department concluded that the Indiana dealership "correctly collected the Indiana sales tax of [\$1,400] at the Arkansas tax rate of 6.5[percent]."

Taxpayer disagreed with the Department's decision and submitted a timely protest to that effect. An administrative hearing was conducted by telephone during which Taxpayer further explained the basis for her protest. This Final Order Denying Refund results.

I. Sales Tax - Tax Paid by Out-of-State Resident.

DISCUSSION

The issue is whether Taxpayer has established that she is entitled to a return of Indiana sales tax paid on the purchase of a car from an Indiana dealership.

Taxpayer argues that Indiana should refund the Indiana sales tax because she paid the same amount of tax again when she registered her vehicle in Arkansas. In essence, Taxpayer argues she was taxed twice on the same

purchase.

[IC 6-8.1-9-1\(a\)](#) affords a taxpayer a statutory right to file a claim for refund. The statute provides, in part:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department.

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 sale is sourced to Indiana and subject to Indiana sales tax when the transaction is a "retail sale" and the product is received by the purchaser at the business' location in Indiana. [IC 6-2.5-13-1\(d\)\(1\)](#). A retail merchant that has a physical presence in Indiana must collect the tax as an agent for the state. [IC 6-2.5-2-1\(b\)](#).

Taxpayer argues she is entitled to a sales tax refund from Indiana because she was required to pay tax a second time on the same vehicle when she titled the vehicle with the Arkansas Motor Vehicle Commission. Taxpayer provided a copy of the original vehicle invoice, an Indiana ST-108NR "Certificate of Gross Retail or Use Tax Paid on the Purchase of a Motor Vehicle for a Nonresident," her original GA-110L, and a photocopy of her Arkansas driver's license.

Taxpayer's documentation establishes that the purchase took place at the Indiana dealership. The transaction began and was concluded in Indiana when Taxpayer (as buyer) took possession of the vehicle she purchased in Indiana even though - according to Taxpayer - a third-party transport service arranged to deliver the vehicle to Arkansas. Nonetheless, Taxpayer acquired ownership of the vehicle in Indiana. Thus, the sale of the vehicle was an Indiana sale subject to Indiana sales tax. [IC 6-2.5-13-1\(d\)\(1\)](#).

In 2014, the Indiana General Assembly enacted legislation, codified at [IC 6-2.5-2-3](#), which offers deferential treatment on certain qualified Indiana sales of motor vehicles. Specifically, a purchaser of a vehicle who buys a vehicle in Indiana but intends to title and register the vehicle to be used in a jurisdiction other than Indiana (within 30 days after the sale) may pay the tax rate of the state for which the vehicle is ultimately titled, registered, and used. *Id.*

The Department's Sales Tax Information Bulletin 84 (July 2020), 20200826 Ind. Reg. 045200440NRA, explains the computation of the sales tax concerning the qualified Indiana sale. The applicable sales tax rate for Arkansas is 6.5 percent. Therefore, the Indiana Dealership collected the correct, reduced amount of Indiana sales tax. To be clear, that sales tax was remitted to Indiana, not to Arkansas. Under [IC 6-2.5-2-3](#), Indiana sales tax was correctly properly collected at the Arkansas rate on the Indiana transaction.

According to Taxpayer, the Arkansas Motor Vehicle Commission declined to allow Taxpayer a "credit" for the amount of sales tax paid Indiana. With respect to Arkansas's policy of not allowing Taxpayer a credit or exemption for sales tax paid for an out-of-state purchase, Taxpayer's remedy, if any, rests with Arkansas. Taxpayer asserts she should not have to pay tax twice on the same vehicle purchase. Indiana has neither control nor authority to address that matter. It is up to the purchaser's state of residence to determine whether that state will allow a purchaser credit or an exemption for sales tax paid to Indiana when she purchased a vehicle in this state.

In summary, Taxpayer's vehicle purchase was an Indiana retail transaction subject to Indiana sales tax. Her purchase qualified for deferential treatment under [IC 6-2.5-2-3](#), and the Indiana dealership collected and remitted sales tax at the correct 6.5 percent rate. To the extent that Indiana Dealership stated that the sales tax would be sent to Arkansas, the Department takes this opportunity to clarify that the Indiana sales tax is collected at the home state rate but is remitted to Indiana and not the home state. The Department correctly denied Taxpayer the requested refund because Taxpayer is not entitled to a refund of sales tax from Indiana.

FINDING

Taxpayer's protest is respectfully denied.

December 1, 2022

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