

Final Order Denying Refund: 04-20231263
Sales Tax
For the Year 2022

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

Indiana Transportation Provider was not entitled to a refund of sales tax paid on the purchase of a vehicle from an Ohio dealership; whether or not Provider was entitled to purchase a vehicle without paying sales tax was a matter between Provider and the state of Ohio, and the Department cannot refund money it did not collect.

ISSUE

I. Gross Retail Tax - Sales Tax Refund.

Authority: [IC 6-2.5-3-5](#); *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010).

Indiana Taxpayer argues it is entitled to a refund of sales tax paid at the time it purchased a truck from an Ohio dealership.

STATEMENT OF FACTS

Taxpayer is an Indiana company in the business of providing transportation services. Taxpayer purchased a truck from an Ohio dealership. The truck cost \$44,000 and the dealership also charged and collected sales tax of \$2,640. Taxpayer then submitted a GA-110L claim for refund seeking a refund of the \$2,640. On the GA-110L Taxpayer explained why it believed it was entitled to the refund.

Purchased truck for business [and] paid sales tax at time of purchase.

In a letter dated September 2022, the Indiana Department of Revenue ("Department") denied the refund explaining as follows:

Claim has been denied due to no sales tax collected from the state of Indiana. The vehicle was purchased in Ohio and originally titled in Ohio. According to the [Indiana Bureau of Motor Vehicles] no sales tax was collected at time of registration. Documents were provided but not in support of claim.

Taxpayer disagreed with the Department's decision and submitted a protest arguing that it was entitled to the \$2,640 refund. Taxpayer directed the Department to issue a "Final determination without a hearing." After reviewing the documentation provided by Taxpayer and the records available to the Department, this Final Order Denying Refund is issued in response to Taxpayer's protest.

I. Gross Retail Tax - Sales Tax Refund.

DISCUSSION

The issue is whether Taxpayer has established that it is entitled to a refund of sales tax paid on the purchase of a vehicle from an Ohio dealership.

In its protest, Taxpayer explained why it concludes that it is entitled to the refund:

We purchased a truck for our business on 9/10/22. It was purchased in Ohio. We gave them a cashier's check for \$44,000. This did not include sales tax as we had a DOT [number] and this is going to [be] used for a company truck. They would not release the title to us until we sent a check in the amount of \$2,640.00. This

was for the sales tax amount. I told them I would take care of the sales tax at our [Indiana] license branch. Since we did not have a MC [number] or a PUCA [number] they would not exclude the sales tax. We needed the title so we could get it titled in Indiana. They should not have titled it in Ohio. They should have just signed off on the back as seller.

Where, as here, a taxpayer is challenging the taxability of Indiana sales transactions, the taxpayer is required to provide documentation explaining and supporting its challenge. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012). When an agency is charged with enforcing a statute, the jurisprudence defers to the agency's reasonable interpretation of that statute "over an equally reasonable interpretation by another party." *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Unfortunately, the Department is unable to assist Taxpayer in this instance. The \$2,640 collected by the Ohio dealership is a matter strictly between Taxpayer and the state of Ohio. The \$2,640 is money that went to the state of Ohio and is amount not controlled by or held by the state of Indiana. Whether or not Taxpayer is entitled to claim that the transaction was or was not subject to sales tax is not an issue the Department is in a position to address.

Of course, Indiana allows a "credit" for sales tax paid in another state such as Ohio. [IC 6-2.5-3-5](#) 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.

However, the question is not whether Taxpayer should receive a credit for the sales tax paid Ohio. What is at issue is whether Indiana should issue Taxpayer a check for the \$2,640; the answer is that it should not. As discussed, the vehicle purchase was not an Indiana transaction, and no Indiana sales tax was collected and remitted to Indiana.

FINDING

Taxpayer's protest is respectfully denied.

April 3, 2023

Posted: 06/28/2023 by Legislative Services Agency
An [html](#) version of this document.