

**Final Order Denying Refund: 04-20231267
Gross Retail 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

The Department disagreed with Indiana Religious Institution that it was entitled to a refund of sales tax paid on the purchase of a vehicle; although Religious Institution was a non-profit organization, the vehicle was purchased from an Illinois dealership which collected Illinois sales tax which was not forwarded to Indiana, despite the dealership's representations.

ISSUE

I. Gross Retail Tax - Sales Tax Collected by Illinois Car Dealer.

Authority: [IC 6-2.5-13-1](#); [IC 6-8.1-9-1](#); [IC 6-2.5-5-25](#); [45 IAC 2.2-2-1](#).

Taxpayer argues that it is entitled to a refund of sales tax paid on the purchase of a vehicle from an out-of-state auto dealer.

STATEMENT OF FACTS

Taxpayer is a religious entity located in Indiana. In June of 2022, Taxpayer purchased an automobile from an Illinois car dealership. The dealership charged Taxpayer approximately \$6,000 in "state sales tax."

Taxpayer submitted to the Indiana Department of Revenue ("Department") a form GA-110L claim for refund of the sales tax. On that return, Taxpayer indicated that it was "tax exempt organization."

In a letter dated September 2022, the Department denied the refund. The letter explained that "[t]here is no evidence of sales tax being paid to Indiana."

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. Taxpayer explained that the Illinois dealer "indicated that they must collect [Indiana] sales taxes for the state of Indiana and it would be remitted to the Indiana Department of Revenue" The dealer explained Taxpayer "must submit a claim to receive a refund from the Indiana Department of Revenue."

An administrative hearing was conducted by telephone during which Taxpayer's representatives explained the basis for its protest. This Final Order Denying refund results.

I. Gross Retail Tax - Sales Tax Collected by Illinois Car Dealer.

DISCUSSION

The issue is whether Taxpayer has established it is entitled to a refund of sales tax. Taxpayer argued that it is entitled to a full refund because it should not have paid tax on the vehicle purchase and that the Department erroneously denied its refund. In this instance Taxpayer has asked the Department for relief based on the dealership's representations at the time the vehicle was purchased. Taxpayer explains:

[I]f these funds have not been submitted to [Indiana], we strongly feel that the Indiana Department should intercede on the church's behalf because the church cannot afford a loss of [\$6,000].

[IC 6-8.1-9-1\(a\)](#) affords a taxpayer a statutory right to file a claim for refund. This 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 shall collect the tax as an agent for the State. [IC 6-2.5-2-1\(b\)](#). However, [IC 6-2.5-5-25\(a\)](#) provides an exemption for purchases made by a non-profit organization:

Transactions involving tangible personal property, accommodations, or service are exempt from the state gross retail tax, if the person acquiring the property, accommodations, or service:

- (1) is an organization described in section 21(b)(1) of this chapter;
- (2) primarily uses the property, accommodations, or service to carry on or to raise money to carry on its not-for-profit purpose; and
- (3) is not an organization operated predominantly for social purposes.

Taxpayer provided a copy of its "Indiana Nonprofit Sales Tax Exemption" which assists the Department in understanding Taxpayer's circumstances. However, whether Taxpayer was or was not entitled to purchase a car without paying sales tax is not at issue. The Illinois dealership did not collect Indiana sales tax and there was no indication that the dealership forwarded the tax to Indiana.

At its most basic level, the Department does not have the \$6,000 collected by the dealership; Indiana cannot refund money it never received. Taxpayer has not referred to any statute, regulation, or court case that would allow the Department to "intercede" with another state on its behalf. If the Taxpayer has a remedy, it is between Taxpayer, the Illinois Department of Revenue, and the dealership.

FINDING

Taxpayer's protest is respectfully denied.

May 8, 2023

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