

DEPARTMENT OF STATE REVENUE

04-20231556.ODR

Final Order Denying Refund: 04-20231556
Sales Tax
For The Tax 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

Individual was not entitled to a refund of sales tax on the purchase of an RV because he failed to provide sufficient documentation to support his protest position.

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

Authority: [IC 6-8.1-9-1](#); [IC 6-2.5-2-1](#); [IC 6-2.5-13-1](#); [IC 6-2.5-5-39](#); *Dept. of Revenue, State of Indiana v. Kimball International, Inc.*, 520 N.E.2d 454 (Ind. Ct. App. 1988); Mich. Comp. Laws Ann. § 205.52; [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 72 (February 2021); <https://www.michigan.gov/dnr/buy-and-apply/rec-pp>.

Taxpayer protests the refund denial of sales tax collected at the time of the sale.

STATEMENT OF FACTS

Taxpayer is a Michigan resident. On April 9, 2021, Taxpayer purchased a recreational vehicle ("RV") from a dealership in Indiana ("Dealership"). Dealership collected Indiana sales tax at a rate of seven percent. On April 23, 2021, Taxpayer registered the RV with Michigan.

Taxpayer filed a claim for refund in Indiana requesting a refund of the one percent difference between the seven percent sales tax rate in Indiana and the six percent sales tax rate in Michigan. The Indiana Department of Revenue ("Department") denied the request due to lack of supporting documentation. Taxpayer protested the denial and requested resolution without a hearing. This Order Denying Refund results. Additional facts will be provided as necessary.

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

The Department determined that Taxpayer was not entitled to a refund. In its refund denial letter, the Department specifically requested Taxpayer to provide additional information showing that both Indiana and Michigan sales tax was paid on the RV purchase. Examples of acceptable documentation included a purchase invoice, a receipt showing Indiana sales tax paid, a receipt showing Michigan taxes paid, and the RV title.

[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).

Tax exemptions are strictly construed against the taxpayer. *Dept. of Revenue, State of Indiana v. Kimball International, Inc.*, 520 N.E.2d 454, 456 (Ind. Ct. App. 1988). The taxpayer has the burden of establishing qualification under the terms of the exemption. *Id.* [IC 6-2.5-5-39](#)(c) provides the exemption requirements involving

a recreational vehicle.

Additionally, the Department's Sales Tax Information Bulletin 72 (February 2021), 20210331 Ind. Reg. 045210102NRA, addresses issues concerning sales tax exemption for nonresident purchasers of recreational vehicles. The Bulletin, explains in part:

II. Definitions

A recreational vehicle is defined as a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways. The term includes a travel trailer, a motor home, a truck camper with a floor and facilities enabling it to be used as a dwelling, and a fifth wheel trailer.

A nonreciprocal state means a state that does not provide an exemption from sales, use, or similar taxes imposed on a cargo trailer or recreational vehicle that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana.

The bulletin further explains that there are eight nonreciprocal states that do not provide an exemption for vehicles to be registered in Indiana. As a result of this nonreciprocity, purchases of RVs made at an Indiana dealership, to be registered in one of the following states, are required to pay Indiana sales tax at the time of purchase:

Arizona	California	Florida	Hawaii	Massachusetts
Michigan	North Carolina	South Carolina		

(Emphasis added.)

Finally, Sales Tax Information Bulletin 72 provides that after July 1, 2020, if the purchaser of a recreational vehicle or cargo trailer intends to both (a) transport that vehicle or trailer to a destination outside Indiana within 30 days after delivery, and (b) title and register that vehicle or trailer for use in one of the nonreciprocal states listed above. . .the Indiana dealer must charge Indiana sales tax at a special rate, which is the rate of the intended destination state or country.

Taxpayer argues that he is entitled to a sales tax refund from Indiana of the one percent difference between the sales tax rates of Indiana and Michigan. In support, Taxpayer provided an explanatory statement and copies of Form ST-108, the refund denial letter dated May 17, 2022, the Bill of Sale (Indiana State Form 44237), the Certificate of Title from Michigan, and the receipt showing Michigan Registration Recreation Passport fee paid.

Taxpayer's argument that he should be refunded the difference between the seven percent Indiana sales tax collected by the Dealership at the time of the RV purchase and Michigan's six percent sales tax is correct. Per the guidelines of Sales Tax Information Bulletin 72, Dealership should have only charged Taxpayer six percent sales tax because he was a nonresident who was titling the RV in Michigan. See also Mich. Comp. Laws Ann. § 205.52. If Taxpayer had provided documentation establishing that he actually paid the seven percent sales tax to the Indiana dealer, the Department would agree that Taxpayer is owed a refund of \$570.00.

However, the Department cannot refund Taxpayer this amount due to lack of documentation. While Taxpayer provided completed Indiana state forms, he failed to provide any documentation from the RV purchase that shows Indiana sales tax paid such as an invoice or receipt from the Dealership. He also failed to provide any documentation showing he paid taxes in Michigan. The receipt provided for the Michigan Registration Recreation Passport shows a license fee paid of \$476; however, the Recreation Passport is a fee "required for motorized vehicle access to state parks and recreation areas, boating access sites, state forest campgrounds" and other outdoor spaces in Michigan. Michigan Department of Natural Resources, <https://www.michigan.gov/dnr/buy-and-apply/rec-pp> (last visited July 12, 2023). The Recreation Passport is unrelated to Taxpayer's payment of sales tax in either Indiana or Michigan.

In summary, Taxpayer should have been charged sales tax at six percent - Michigan's sales tax rate. If Taxpayer was charged Indiana's sales tax at a rate of seven percent, Taxpayer is owed a refund. However, Taxpayer has failed multiple times to respond to the Department's requests for additional documentation. Without such documentation, the Department cannot agree to the claimed refund.

The Department notes that if Taxpayer possesses and would like to submit the requested documentation, then he can request a rehearing upon receipt of this final decision. The Department will then consider any additional information provided and determine whether Taxpayer's refund request is valid.

FINDING

Taxpayer's protest is denied.

July 14, 2023

Finding Replaces: New

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An [html](#) version of this document.