

Final Order Denying Refund: 04-20231912
Sales Tax
For The Tax 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

Individual was not entitled to a refund of sales tax on the purchase of a motor vehicle because the dealership correctly charged Indiana sales tax at the Arkansas rate.

ISSUE

I. Sales Tax - Refund.

Authority: [IC 6-8.1-9-1](#); [IC 6-2.5-2-1](#); [IC 6-2.5-13-1](#); *Dept. of Revenue, State of Indiana v. Kimball International, Inc.*, 520 N.E.2d 454 (Ind. Ct. App. 1988); [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 28S (February 2021); <https://www.dfa.arkansas.gov/excise-tax/sales-and-use-tax/state-tax-rates/>; http://www.state.ar.us/dfa/income_tax/documents/moving_2_arkansas05252006.pdf.

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

STATEMENT OF FACTS

Taxpayer is an Arkansas resident. On December 20, 2022, Taxpayer purchased a car from a dealership ("Dealership") in Indiana. Dealership collected Indiana sales tax on the purchase at a rate of six and one-half percent. On February 29, 2023, Taxpayer registered the vehicle with Arkansas. Arkansas charged Taxpayer sales tax on the vehicle at a rate of six and one-half percent.

Taxpayer filed a claim for refund in Indiana requesting a refund of the sales tax paid in Indiana. The Indiana Department of Revenue ("Department") denied the refund. Taxpayer protested, and an administrative hearing was held. This Final 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 because Dealership correctly charged Indiana sales tax at the Arkansas rate of six and one-half percent.

[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.* The Department's Sales Tax Information Bulletin 28S, 20210331 Ind. Reg. 045210101NRA (February 2021), provides guidance on vehicle purchases that are Indiana transactions where the vehicle will later be transported out-of-state. The Bulletin explains, in part:

General Application of Sales Tax

Absent a statutory exemption, all sales of motor vehicles and trailers purchased in Indiana are subject to Indiana sales and use tax. **This includes sales where the purchaser intends to immediately register, license, and/or title the motor vehicles or trailer for use in another state.**

If the motor vehicle is to be moved and titled in another state or country within thirty (30) days of the sale, Indiana sales tax at the rate imposed by the other state or country may apply instead of the normal seven[percent] rate. If the other state's sales tax rate applies, Indiana sales tax shall still be collected by the dealer and remitted to the Indiana Department of Revenue. (**Emphasis in original.**)

Taxpayer argues that he is entitled to a sales tax refund from Indiana because he was "double taxed" when he was required to remit additional sales tax to Arkansas at the time he registered the vehicle. In support of the protest, Taxpayer provided an explanation and copies of the Vehicle Order Agreement, Arkansas registration, Dealer Title Affidavit, related loan paperwork, and personal property assessment for 2022 from the Arkansas assessor's office (at the county level).

Taxpayer's vehicle purchase was an Indiana transaction. Documentation provided by Taxpayer shows the transaction took place at the Dealership's location in Indiana. The transaction began and concluded in Indiana when Taxpayer took possession of the vehicle in Indiana and later drove it to Arkansas. Thus, the vehicle sale was subject to Indiana sales tax. [IC 6-2.5-13-1\(d\)\(1\)](#). Dealership was required to collect Indiana sales tax at the time Taxpayer purchased the vehicle.

Pursuant to Sales Tax Information Bulletin 28S, because Taxpayer is an Arkansas resident and immediately transported the vehicle out of Indiana, Dealership was required to collect Indiana sales tax at the Arkansas sales tax rate of six and one-half percent. See Arkansas Department of Finance and Administration, <https://www.dfa.arkansas.gov/excise-tax/sales-and-use-tax/state-tax-rates/> (last visited July 26, 2023). A review of the Vehicle Order Agreement provided by Taxpayer shows the Dealership collected Indiana sales tax at the Arkansas sales tax rate. This was the correct procedure by Dealership.

During the hearing, Taxpayer noted the Vehicle Order Agreement shows a line item labeled "ADDT'L OOS TAXES." Taxpayer then explained that Dealership collected this additional amount of out-of-state taxes and remitted the taxes to the Arkansas Department of Motor Vehicles on his behalf. Taxpayer was unsure whether this amount was related to the sales tax collected or something else.

After review, it appears the "additional taxes" collected are a personal property tax administered by Arkansas pursuant to state requirements. Arkansas assesses personal property tax on vehicles each year, and the tax amount due is determined by the value of the personal property item (i.e., the value of the car). See Arkansas State Government, http://www.state.ar.us/dfa/income_tax/documents/moving_2_arkansas05252006.pdf (last visited July 26, 2023). This is an Arkansas requirement that has nothing to do with the collection of Indiana sales tax at the time the vehicle was purchased.

Finally, Taxpayer's argument that he was "double taxed" is properly a complaint with the state of Arkansas. Arkansas' lack of reciprocity with Indiana rests with the Arkansas legislature. Indiana has neither control nor authority to address the matter. It is up to the purchaser's state of residence to determine whether that state will give a purchaser credit or an exemption for sales tax paid to Indiana when a vehicle is purchased out-of-state.

In sum, Taxpayer's purchase of a new vehicle was an Indiana retail transaction subject to Indiana sales tax. The Dealership correctly charged him the Arkansas sales tax rate of six and one-half percent at the time of purchase rather than Indiana's sales tax rate of seven percent. Taxpayer has not paid more than was originally owed to Indiana at the time of the sales transaction. Therefore, Taxpayer is not entitled to a refund. Taxpayer's remedy, if any, lies with Arkansas.

FINDING

Taxpayer's protest is denied.

July 28, 2023

Finding Replaces: New

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