

**Final Order Denying Refund Number 04-20231511**  
**Indiana Gross Retail and Use 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**

Illinois Resident was not entitled to a refund of Indiana sales tax paid on the purchase of a vehicle from an Indiana dealership. Although the vehicle was returned pursuant to Indiana's lemon law, the circumstances did not permit the Department to "unwind" the transaction and refund the tax.

**ISSUE**

**I. Sales Tax - Refund of Indiana Tax Paid on the Purchase of a Vehicle.**

**Authority:** [IC 6-2.1-2-1](#); [IC 6-2.5-13-1](#); [IC 6-8.1-9-1](#); *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); [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 28S (January 2023); Sales Tax Information Bulletin 28S (February 2021).

Taxpayer argues that he is entitled to a refund of Indiana sales tax paid on the purchase of a vehicle from an Indiana dealership.

**STATEMENT OF FACTS**

Taxpayer is an Illinois resident who bought a truck from an Indiana dealership. The purchase took place in June 2021. The dealership collected Indiana sales tax.

Two months later, Taxpayer returned the truck to the dealership. The truck's manufacturer agreed to repurchase the truck under the terms of Indiana's "lemon law."

According to Taxpayer, both he and the dealership assumed that the Indiana sales tax collected by the Indiana would be forwarded to the Illinois Department of Revenue.

Under that assumption, Taxpayer unsuccessfully attempted to obtain a refund from the state of Illinois. Taxpayer explained:

The Illinois Department of [R]evenue sent me a form to fill out and return to them to request the refund which I did. I later received a tentative denial letter from the state of Illinois. I contacted the Illinois Department of Revenue who informed [me] that my [refund] request was denied because the sales tax did not get transferred from Indiana to Illinois but instead remains with the state of Indiana.

....

The Illinois Department of Revenue told me that I would need to make my request to the Indiana Department of Revenue.

Taxpayer submitted to the Indiana Department of Revenue ("Department") a GA-110L request for a refund of approximately \$3,900.

The refund request sent to the Department was less than the amount of tax originally collected. The "repurchase amount from [manufacturer was] reduced by the amount for miles driven."

In a letter dated December 2022, the Department denied the \$3,900 refund, explaining as follows:

Indiana law[] allows a refund of sales tax when the tax on the original bill was submitted to Indiana, if the

vehicle is returned and a full refund is granted the customer. Indiana also allows a new vehicles taxable sales price to be reduced [by] the value of a like kind vehicle taken in as trade. There is no provision for the sales tax to be refunded if a previously purchased vehicle is bought back by the manufacturer.

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. On his protest, Taxpayer requested a "[s]ettlement without a hearing or a final determination." Taxpayer offered to settle the dispute if the Department would refund approximately \$3,600.

This Final Order Denying Refund was written in reliance on Taxpayer's explanation, Taxpayer's documentation, and the Department's own records.

## **I. Sales Tax - Refund of Indiana Tax Paid on the Purchase of a Vehicle.**

### **DISCUSSION**

The issue is whether Taxpayer has established that he is entitled to a refund of Indiana sales tax paid on the purchase of a truck from an Indiana dealership.

At the outset, the Department takes this opportunity to point out that Indiana sales tax collected on a transaction conducted in Indiana is not forwarded to other state authorities. Illinois merchants collect Illinois sales tax on transactions conducted in Illinois, and Indiana merchants collect Indiana sales on transactions conducted in Indiana. Any vehicle dealership's representation to the contrary is wrong.

[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\(b\)](#).

Where, as here, a taxpayer is challenging the imposition of sales tax, 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).

Taxpayer raises a number of issues intended to buttress his arguments.

- We could very likely have traded the vehicle for another, received as much as [manufacturer] paid us, and received tax credit for the trade in value.
- We specifically wanted this vehicle to either be repaired properly before being resold or at the very least make certain that the problems were not hidden from another potential customer.
- We had to purchase another vehicle . . . and pay sales tax on it as well.
- The bottom line is that we purchased a defective product and returned it. There is really no difference than returning any defective product.
- An Illinois resident pays the Illinois sales tax rate for a vehicle purchased in [] the state of Indiana . . . [then] Indiana should also follow the rest of the Illinois regulations regarding the transaction.

The Department has anticipated circumstances in which a vehicle transaction should be "unwound" and the sales tax refunded.

The Department's Sales Tax Information Bulletin 28S (February 2021), 20210331 Ind. Reg. 045210101NRA, addresses those circumstances.

Transactions that result in customer-returned vehicles for which sales tax has been collected and remitted by the retail merchant may qualify for a refund of sales tax, in whole or in part, to the retail merchant if:

The vehicle is returned within the number of days allowed for a return pursuant to the retail merchant's publicly stated return policy or specified in the written contract entered into between the purchaser and retail merchant, not to exceed 90 days;

The vehicle is returned pursuant to explicit, written terms of the parties' contractual agreement or the retail merchant's publicly stated return policy; and

The purchaser of the vehicle is refunded the entire purchase price including any sales tax (i.e., the amount actually collected by the retail merchant from the purchaser of the vehicle).

All three conditions must be met in order for the refund of sales tax, in whole or in part, to be granted. Vehicles returned by purchasers after the number of days allowed for a return as specified in the written contract or the retail merchant's publicly stated return policy, or exceeding 90 days, do not qualify for a refund of sales tax.

See *also* Sales Tax Information Bulletin 28S (January 2023), 20230125 Ind. Reg. 045230016NRA.

In this instance, there is nothing to indicate that the Indiana dealer has a fixed policy which would allow one of its customers to return a vehicle with no questions asked. There is no evidence that Taxpayer's truck was returned pursuant to the dealer's "explicit contract." Taxpayer was not refunded the "entire purchase price" originally paid.

The Department acknowledges Taxpayer's dilemma. However, Taxpayer's arguments are wholly insufficient to justify refunding the sales tax paid on the purchase of a vehicle from an Indiana dealership.

#### **FINDING**

Taxpayer's protest is respectfully denied.

October 6, 2023

*Finding Replaces: New*

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