

Final Order Denying Refund: 04-20232282
Sales Tax
For The Tax Year 2023

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 South Carolina rate.

ISSUE

I. Sales Tax - Refund.

Authority: [IC 6-2.5-2-1](#); [IC 6-2.5-2-3](#); [IC 6-2.5-13-1](#); [IC 6-8.1-9-1](#); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Rev. v. Kimball International, Inc.*, 520 N.E.2d 454 (Ind. Ct. App. 1988); [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 84 (April 2023); Sales Tax Information Bulletin 28S (February 2021); Maximum Sales and Use Tax (Max Tax), <https://dor.sc.gov/tax/max-tax>. (last visited November 15, 2023).

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

STATEMENT OF FACTS

Taxpayer is a South Carolina resident. On January 3, 2023, Taxpayer purchased a vehicle from a dealership ("Dealership") in Indiana. Dealership collected Indiana sales tax on the purchase at a rate of five percent. Taxpayer then registered the vehicle in South Carolina.

Taxpayer, believing she had paid more sales tax than was legally due to Indiana, filed a claim for refund for some of the sales tax paid in Indiana. The Indiana Department of Revenue ("Department") denied the refund. Taxpayer protested and waived her right to an administrative hearing. This Final Order Denying Refund results from documentation provided by the Taxpayer and the Department's own records. 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 South Carolina rate of five percent. When examining a statute that an agency is "charged with enforcing . . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party." *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

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\(b\)](#).

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

[IC 6-2.5-2-3](#)(b) also states:

[T]he state gross retail tax rate on a motor vehicle that a purchaser intends to:

...

(2) title register for use in another state or country;
is the rate of that state or country. . .

Taxpayer argues that she is entitled to a sales tax refund from Indiana because, while South Carolina does collect five percent sales tax on vehicles, it caps sales tax on the purchase of motor vehicles at \$500. In support of the protest, Taxpayer provided an explanation as well as a copy of the Indiana ST-108NR form which reflects the amount of sales tax paid on the purchase of a vehicle by a nonresident.

Generally, South Carolina collects sales tax at a rate of six percent. However, South Carolina has a special tax rate for the purchase of motor vehicles and other specific items. On such purchases, South Carolina imposes a "Max Tax" of five percent up to \$500. See South Carolina Department of Revenue <https://dor.sc.gov/tax/max-tax> (last visited November 15, 2023). Taxpayer argues that Indiana should have calculated sales tax pursuant to South Carolina's special tax rate for vehicles. Sales Tax Information Bulletin 84 20230503 Ind. Reg. 045230228NRA (April 2023) provides guidance for such situations:

The sales tax rates of other states are inclusive of only state-level rates. . . Additionally, the statutory language of [IC 6-2.5-2-3](#) requires the application of the **destination state's state-level sales tax rate only to the sale of a motor vehicle** that is to be titled and registered for use in another state. Accordingly, the destination state's sales tax rate is the only aspect of that state's laws that will be incorporated by virtue of [IC 6-2.5-2-3](#). The statute does not require the incorporation of other aspects of a state's laws relating to transactions involving vehicles, such as other states' trade-in rules, **caps on tax**, and other exemptions.

(Emphasis added).

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 South Carolina. 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 South Carolina's sales tax rate for vehicles at the time Taxpayer purchased the vehicle. Documentation provided by the Taxpayer reflects that the Dealership collected five percent sales tax. This was the correct procedure by Dealership.

The Department recognizes that South Carolina law provides a cap of \$500 on the total amount of tax to be collected on the sale of a motor vehicle. However, [IC 6-2.5-2-3](#) provides only that the sales tax to be collected is that sales tax rate of that state. There is no provision in Indiana law which recognizes South Carolina's cap on the purchase of the vehicle.

In sum, Taxpayer's purchase of a new vehicle was an Indiana retail transaction subject to Indiana sales tax. The Dealership correctly charged her the South Carolina sales tax rate on vehicles of five percent at the time of purchase rather than Indiana's sales tax rate of seven percent. Taxpayer did not pay more than was correctly owed to Indiana at the time of the sales transaction. Therefore, Taxpayer is not entitled to a refund, as provided by [IC 6-2.5-2-3](#)(b).

FINDING

Taxpayer's protest is denied.

Finding Replaces: New

Posted: 01/31/2024 by Legislative Services Agency
An [html](#) version of this document.