

**Final Order Denying Refund 04-20241027
Indiana Gross Retail and Use Tax For the 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

The Department was unable to agree with Illinois Individual that he was entitled to a refund of sales tax paid on the purchase of a car from an Indiana auction house. The auction house correctly charged Indiana sales tax at the deferential Illinois rate on a retail transaction completed and taxable in Indiana.

ISSUE

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

Authority: [IC 6-2.5-2-3](#); [IC 6-2.5-2-1](#); [IC 6-2.5-13-1](#); [IC 6-8.1-9-1](#); [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 20 (January 2023); *Illinois Use Tax Questions and Answers*.
<https://tax.illinois.gov/research/taxinformation/sales/rot.html>. (Last visited February 6, 2024).

Taxpayer protests the denial of a refund of sales tax paid on the purchase of an automobile.

STATEMENT OF FACTS

Taxpayer is an Illinois resident who purchased a vehicle. Initially, the Department found that Taxpayer bought the car from an Indiana auction house. The auction house's bill of sale indicates that "hammer price" was \$15,000. The auction house also charged a \$850 "premium" and a \$150 charge for "other." The Indiana auction house's bill of sale indicated that Taxpayer was charged \$1,000 in taxes. In total, Taxpayer paid \$17,000 for the car. The \$17,000 was paid by means of a wire transfer between Taxpayer and the auction house. Thereafter, Taxpayer arranged for a moving company to transport the car from the auction house's Indiana location to his own location in Illinois.

Taxpayer believed he was entitled to a refund of the \$1,000 in sales tax and submitted a "Claim for Refund" (Form GA-110L). On that form, Taxpayer explained why he was entitled to the refund.

I am from Illinois and purchased a car from an Illinois seller [Illinois Individual]. I purchased the car while I was in Illinois off the internet. I should never have been charged sales tax in Indiana.

Elsewhere on same form, Taxpayer provided an additional explanation.

See enclosed copy of Title signed by Illinois resident to an Illinois resident while in Illinois. Did not go to Indiana. (Emphasis in Original).

The Indiana Department of Revenue ("Department") responded in a letter dated July 2023. The Department denied the refund. The letter explained that the Indiana auction house "properly handled this transaction."

[Indiana auction house] collected the Indiana sales tax at the Illinois rate. The customer should have taken the credit for taxes paid in Indiana when the vehicle was registered/titled in Illinois.

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. Taxpayer essentially argued that instead of purchasing the car from the Indiana auction house, he purchased the car directly from another Illinois individual or from the auction house's Wisconsin business headquarters. Taxpayer's protest stated in part as follows.

The Sale occurred thru purchaser's home state of Illinois and with corporate offices in Wisconsin. This final agreement did not occur until days later after the auction had ended. It was a private sale of an Illinois vehicle with a private buyer from Illinois and a Wisconsin company receiving a commission.

....

[Indiana auction house] is not a dealer in Indiana and thus the State of Illinois does not recognize them unless their name is listed on the title, which it was not. The title explicitly states the vehicle was sold by a private individual and bought by a private individual.

....

[W]e consider this to be a Wisconsin transaction that occurred in Illinois. "No Indiana Ties." (Emphasis in Original).

An administrative hearing was scheduled to be conducted by telephone. The hearing was scheduled in order to allow Taxpayer an opportunity to further explain the basis for his protest. This Final Order Denying Refund results.

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

DISCUSSION

The issue is whether Taxpayer has met his burden of establishing that the Department made a mistake in denying the requested refund. Taxpayer makes this claim on the grounds that he did not buy the car from the Indiana auction house but bought the car in a "person-to-person" private sale from an Illinois resident. Alternatively, Taxpayer maintains that the car was purchased from the auction house's Wisconsin business headquarters. Either way, Taxpayer concludes "No Indiana Ties."

[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's 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).

Indiana's Sales Tax Information Bulletin 20 (January 2023), [20230125-IR-045230015NRA](#), provides as follows:

[A]uction companies and auctioneers must collect sales tax at all auctions where either of the following conditions exists:

1. The auction/sale is held at premises owned, leased, or provided by the auction company or auctioneer.
2. The tangible personal property was purchased for resale by the owner or was consigned by a third party for sale.

The available documentation is somewhat at odds with Taxpayer's explanation. Taxpayer signed "under penalty of perjury" an ST-108NR which is a form documenting instances in which a car is to be titled and registered in another state. The auction house stated that it is located in Indianapolis, Indiana. Taxpayer was designated as "Purchaser" having an Illinois address. The ST-108NR indicates that the \$1,000 tax was collected on the \$16,000 purchase price at a rate of 6.25 percent.

The Department will not attempt to reconcile the bill of sale and the ST-108NR. The ST-108 indicates that "total selling price" was \$16,000, while the bill of sale states that the "hammer price" was \$15,000. Whatever the explanation, both documents indicate that Taxpayer paid \$1,000 in tax.

The Department will also not attempt to address Taxpayer's passing reference that the \$1,000 was simply an inappropriate or unwarranted "commission" charged by the auction house for simply acting as a "go between."

The Department presumes that the auction house charged 6.25 percent in sales tax in compliance with [IC 6-2.5-2-3](#). That provision offers deferential treatment on certain qualified Indiana sales of motor vehicles. Specifically, a

purchaser of a vehicle who purchases a vehicle in Indiana but intends to title and register the vehicle to be used in states other than Indiana (within 30 days after the sale) may pay the tax rate of the state for which the vehicle is ultimately titled, registered, and used. In this instance, the auction house charged Taxpayer Indiana sales tax but correctly used the more favorable Illinois rate.

Taxpayer is correct when he explained that the automobile's prior owner was an individual located in Illinois. That fact is documented on the vehicle title and on the auction house's "Bill of Sale." However, that same bill of sale was issued by the auction house and describes what, under Indiana law, was an Indiana transaction.

Based on the documentation available, the Department is unable to definitively conclude that Taxpayer bought the car in a face-to-face private sale with the previous Illinois car owner or that the car was purchased and executed with the auction house's Wisconsin business headquarters.

Taxpayer indicates that the Illinois Department of Transportation refused to allow a credit for the tax paid Illinois. Whether or not Illinois should have allowed a \$1,000 credit against any Illinois tax is a matter between Taxpayer and the Illinois Department of Revenue. However, the Department takes note of the Illinois Department of Revenue's own statement on the issue.

[Illinois does] allow credit for taxes properly due and paid to other states. However, if you pay tax to another state at less than the Illinois Use Tax rates, you must pay Illinois the difference. *Illinois Use Tax Questions and Answers*. <https://tax.illinois.gov/research/taxinformation/sales/rot.html>. (Last visited February 6, 2024).

In summary, Taxpayer is not entitled to a refund because Taxpayer's vehicle purchase was an Indiana retail transaction subject to Indiana sales tax. Taxpayer's purchase qualified for deferential treatment under [IC 6-2.5-2-3](#), and the Indiana auction house collected and remitted sales tax at the correct rate of 6.25 percent. Simply stated, Taxpayer purchased a car located in Indiana and entered into a transaction taxable in this state.

FINDING

Taxpayer's protest is respectfully denied.

February 22, 2024

Replaces Finding Document at: New

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