

**Final Order Denying Refund: 04-20211069**  
**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 Indiana sales tax on a vehicle purchase because Individual purchased the vehicle and took possession at the Indiana Dealership's business location in Indiana. The transaction was an Indiana sale subject to Indiana sales tax.

**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 § 6-2.5-2-3; [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 84 (July 2020).

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

**STATEMENT OF FACTS**

Taxpayer is a resident of West Virginia. On August 28, 2021, Taxpayer purchased a vehicle at a dealership in Indiana ("Dealership"). Dealership collected Indiana sales tax at a rate of six percent - the sales tax rate for West Virginia. Taxpayer took possession of the vehicle at the Dealership in Indiana and drove the vehicle to West Virginia.

On September 29, 2021, Taxpayer registered his vehicle with West Virginia. At the time of registration, he was charged \$2,139.60 as a "privilege tax" to register his vehicle. This amount was equal to six percent of the vehicle's purchase price. After paying the West Virginia tax, Taxpayer contacted the Indiana Department of Revenue ("Department"). The Department directed Taxpayer to file Form ST-108NR to request a refund. Taxpayer filed Form ST-108NR, and his refund request was denied.

Taxpayer protested the refund denial, 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 Taxpayer was not entitled to a refund. In its refund denial letter, the Department explained:

Indiana dealer correctly collected sales tax at 6 [percent] for West Virginia. West Virginia is nonreciprocal to Indiana. An Indiana dealer will only be required to collect sales tax at the destination states [sic] rate up to Indiana's rate of 7 [percent]. Regardless of whether the destination state's [sic] or country's rate is greater than 7 [percent], the maximum sales tax rate to be imposed on the purchase of a vehicle from and Indiana dealer is 7 [percent].

Taxpayer argues that Indiana should refund the sales tax it collected because he paid the same amount of tax again when he registered his vehicle in West Virginia. In essence, Taxpayer argues he was taxed twice for the same purchase.

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).

Taxpayer argues he is entitled to a sales tax refund from Indiana because he was required to pay tax a second time on the same vehicle purchase when he titled the vehicle with the West Virginia Department of Motor Vehicles ("WV DMV"). Taxpayer provided the following documents in support of his protest: Bill of Sale from Dealership showing the sales tax paid in Indiana, a receipt from WV DMV registering the vehicle and showing the "privilege tax" paid, and a copy of Form ST-108NR filed with the Department.

Taxpayer's documentation shows the transaction took place at the Dealership located in Indiana. The transaction began and concluded in Indiana when Taxpayer (as the Buyer) took possession of the vehicle he purchased in Indiana. The Dealership delivered the vehicle to Taxpayer in Indiana. Thus, the sale of the vehicle was an Indiana sale subject to Indiana sales tax. IC § 6-2.5-13-1(d)(1).

In 2014, the Indiana General Assembly enacted legislation, codified at IC § 6-2.5-2-3, which 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. *Id.* The Department's Sales Tax Information Bulletin 84 (July 2020) 20200826 Ind. Reg. 045200440NRA further explains the computation of the sales tax concerning the qualified Indiana sales. The applicable sales tax rate for West Virginia is six percent. Therefore, the Indiana Dealership collected the correct, reduced amount of sales tax. To be clear, that sales tax was remitted to Indiana, not to West Virginia. Under IC § 6-2.5-2-3, Indiana sales tax was properly collected at the West Virginia rate on the Indiana transaction.

With respect to West Virginia's policy of not allowing a Buyer a credit or exemption for sales tax paid for an out-of-state purchase, Taxpayer's remedy, if any, rests with West Virginia. Taxpayer asserts he should not have to pay tax twice on the same vehicle purchase. Indiana has neither control nor authority to address that 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 he purchases a vehicle out of state.

In summary, Taxpayer's vehicle purchase was an Indiana retail transaction subject to Indiana sales tax. His purchase qualified for deferential treatment under IC § 6-2.5-2-3, and Indiana Dealership collected and remitted sales tax at the correct rate of six percent. Therefore, Taxpayer is not entitled to a refund of sales tax from Indiana.

## FINDING

Taxpayer's protest is denied.

February 10, 2022

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