



# Automobile Dealers Association of Indiana, Inc.

BULLETIN

Bulletin #1301(a) - January 15, 2013

## **SUPPLEMENTAL MEMORANDUM – ADAI Bulletin #1301 IDOR'S INFORMATION BULLETIN #2 – Extended Service, Maintenance & Optional Warranties SALES TAX COLLECTED ON TRANSACTIONS AFTER DECEMBER 31, 2012**

We have been receiving many questions from dealers around the state concerning the appropriate course of action where a dealer sold an extended service contract on or after January 1, 2013 and collected sales tax on the total amount of the contract pursuant to the prior position of the Indiana Department of Revenue (IDOR). We asked our retained counsel, Stewart & Irwin, P.C., to issue this Supplemental Memorandum on the issue. Stewart & Irwin has been in touch with the IDOR and has worked out the following voluntary goodwill procedure:

1. Only the customer that paid the sales tax has a right to a claim for refund. The dealer cannot make any refunds on its own and take any credits on future sales tax returns.
2. You may contact your customer and assist him/her with the filing of a claim for refund with the Revenue Department but only in those instances where the sale was entered into on or after January 1, 2013 and where the sales tax was collected by you on the entire price of the extended service contract or extended warranty. Please remember that if the warranty is included in the price of the vehicle, as with the manufacturer's warranty or in the case of a used vehicle a dealer limited warranty, then tax is collected on the entire sale price of the vehicle and not separately on the extended service contract. You may tell your customer that you just became aware of a change in the interpretation with regard to the imposition of sales tax on the price of the extended service contract and that the customer should therefore have a refund coming for the amount of the sales tax paid at the time of the sale. If you wish, you can tell the customer that sales tax will be collected on parts and other taxable consumables at the time of any repair.

Attached to this email is a copy of IDOR's "Claim for Refund Form GA-110L." Copies of this form can be obtained from IDOR's website: [www.in.gov/dor](http://www.in.gov/dor) (The form can be found in the column containing "Business Forms" (even though it's an individual form) or on ADAI's website: [www.adai-inc.org](http://www.adai-inc.org) ("Dept. of Revenue Links" "Sales Tax Information"). You may assist the customer in preparing the Claim for Refund form. You may fill out the informational section, check the box that says "Sales & Use" and in the explanation box, place the following language:

"This claim for refund is based upon a change in interpretation of the sales tax law as contained in Information Bulletin #2 effective January 1, 2013. The taxpayer purchased an extended service contract/warranty in conjunction with the purchase of the vehicle shown on the attached purchase contract. The sales tax was collected by the automobile dealer consistent with the Department's interpretation existing prior to January 1, 2013."

3. Regarding other boxes - "Year or Period Ending" – insert date of sale. The "Requested Refund Amount" would be the amount of tax collected and the "Date" would be the date of the sale contract. Since there is only one contract involved, you can use the right-hand side of the form. The customer should sign, print his/her name, fill out the daytime telephone number and date the Claim for Refund. It should then be mailed to the Indiana Department of Revenue, 100 N. Senate Avenue, Room N203, MS#105, Indianapolis, IN 46204-2253. Remember, a copy of the vehicle contract showing the separate extended service contract and the tax attributable thereto should be attached to the Claim for Refund, otherwise the claim will be denied.

You could even go so far as to mail the Claim for Refund on behalf of the customer to the Indiana Department of Revenue. Further processing the Claim for Refund and any communication that would take place between the Department and the customer will be solely between them, and you will have done all that you can do to facilitate the refund.

**LEASE TRANSACTIONS.** Questions have arisen with regard to whether or not, on lease transactions, tax should be collected where an extended service contract/warranty is included in the transaction. On an INTERIM basis until further guidance is received from the Indiana Department of Revenue, the agreement reached with the Department is that tax will be collected on the total monthly payment under the lease without regard to any included item. This would be consistent with the statutory concept labeled as a "unitary transaction." The Department has suggested that we request a more thorough review of that topic, which we have done. However on an interim basis, until further notice, tax should be collected on the basis of the total lease monthly payment.

Should you have any questions, please feel free to contact Ron Smith or Donn Wray, Stewart & Irwin, P.C., 317-639-5454.