



# Automobile Dealers Association of Indiana, Inc.

**REGULATORY BULLETIN**

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July 17, 2007

## **BULLETIN #31**

### **IDOR INFORMATION BULLETIN #2 (December 2006)** **WARRANTIES & SERVICE CONTRACTS**

The Indiana Department of Revenue (IDOR) issued a new Information Bulletin #2 (IB#2) in December 2006 replacing information contained in IB #2 dated May 2002. This new bulletin sets out the recommended guidelines dealers are to follow when collecting sales tax on warranties and service contracts. This revised bulletin adds information regarding warranty rental provisions contained in an original warranty as well as major changes (complete reversal) in the optional warranty and extended service contract section.

**Late January 2007 - Initial Discovery & Consultation:** ADAI was initially informed by an ADAI member about the revised bulletin in late January. IDOR had notified accounting firms who had notified their clients. We immediately scheduled a meeting with IDOR to discuss the concerns of dealers. As a result of the January 29, 2007 meeting, ADAI asked IDOR to place ADAI on their notification list and requested IDOR to review the bulletin for interpretation and consistency as well as to define "reasonable expectation." IDOR agreed to talk to its Review Committee to consider consistency and provide their official opinion.

**Late March 2007 - Unofficial Response:** ADAI was informed unofficially by IDOR there would be no changes made to IB#2 as presently written. With regard to the definition of "reasonable expectation," IDOR believes when a warranty is sold, the dealer 'reasonably expects' to replace a part; therefore, the warranty is subject to sales tax. We continued to answer phone calls and questions on IB #2 while waiting to notify ADAI members until an official written response to our concerns was received.

**Late June 2007 – Second Meeting with IDOR:** ADAI EVP Marty Murphy met with the IDOR Commissioner and the heads of its Audit and Tax Policy divisions to discuss IB#2 and ADAI concerns expressed initially and during the interim waiting period. The meeting was also attended by a representative from K.B. Parrish, an accounting firm and allied member of ADAI, to discuss other sales tax related issues as well as IB#2. During this meeting, IDOR expressed the following in response to questions posed by EVP Murphy & K.B. Parrish:

#### **Information Bulletin #2:**

- IDOR will not reverse its position
- IDOR will postpone dealer compliance until August 1, 2007
- IDOR policy on warranties and maintenance agreements is now uniform in that *all* are taxed upfront and parts replaced under them are not subject to tax
- IDOR will provide instructions on reporting sales tax collected on warranties and maintenance agreements
- IDOR will not give full/partial sales tax refunds on cancelled warranties or maintenance agreements
- IDOR will provide guidance regarding optional 'roadside assistance' service contract taxability

#### **Information Bulletin #28S (Suspended May 2007):**

- Documentary fees are taxable if collected before delivery (...of the vehicle as opposed to delivery of the title)
- IDOR audits will be prospective with changes in policy and not retroactively applied
- IDOR will grant a trade-in allowance on vehicles owned by and titled to an "immediate family member" of the purchaser/customer (such as parents, grandparents and siblings).

**(See other side)**

**Current – Written Verification of IDOR Meeting Information:** On July 16, 2007, ADAI received IDOR’s written response to two (2) of the questions posed at the June 28, 2007 meeting. This letter verified that IB #2 is effective August 1, 2007 and that a customer may not seek a sales tax refund based on the unexpired term of the extended warranty. If you would like a copy of the IDOR letter, please contact ADAI headquarters.

If you would like a copy of IDOR’s new IB #2 or IB #28S, you may download a copy from ADAI’s website. Just click on “Dept of Revenue Links” on the left-hand side, then “Information Bulletins – Sales Tax” and make the appropriate selection. You may also download a copy from IDOR’s website at [www.in.gov/dor/business/dealer.html](http://www.in.gov/dor/business/dealer.html) .

If you have any questions or would like copies emailed to you, please contact Cindy Wagner at ADAI headquarters at (800) 862-0363 or email [cindy@adai-inc.org](mailto:cindy@adai-inc.org) .