



Indiana Department of Revenue

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General Tax Information Bulletin #102

Subject: Collection of Tax from Transient Merchants
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References: IC 6-2.5-2; IC 6-2.5-6; IC 6-2.5-8; IC 6-3-2; IC 6-3-4; IC 6-3-5; IC 6-8.1-5; IC 6-8.1-8; IC 6-8.1-9; IC 25-37-1

Replaces Bulletin #102, dated September 2020

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Summary of Changes

Only nonsubstantive, technical changes have been made to this bulletin. It has been primarily changed to reflect updated formatting.

Introduction

The purpose of this bulletin is to outline the department's position on the collection of Indiana sales tax and adjusted gross income tax from transient merchants.

Applicability

Sales Tax

Indiana sales tax is imposed on a retail merchant's transactions which constitute selling at retail. The tax also applies to transient merchants, defined in IC 25-37-1 as one who engages in temporary business in Indiana. Before selling at retail in Indiana, a merchant is required to obtain a Registered Retail Merchant Certificate (RRMC) from the department. A merchant should register online through INBiz, which is Indiana's online registration portal, by visiting inbiz.in.gov.

It is important to note that an RRMC is not the same as a Transient Merchant License and does not grant the same authority. A Transient Merchant License must also be obtained from the county auditor of the county in which the merchant intends to do business, if the county so requires. As

of the issuance date of this bulletin, Parke County was the only county with such a requirement. Some Indiana cities and towns have merchant licensing requirements as well, so it is important to check with local officials before selling in a particular location.

Upon registration and for the first full year, the merchant will be required to file sales tax returns (Form ST-103) based on their taxable sales volume for the preceding calendar year, as determined by the department. Sales tax returns are primarily due on a monthly basis, unless the retail merchant has annual collections of less than \$1,000, in which case the merchant will only be required to file a return annually. Alternatively, a merchant that only does business during specific months of the year can be permitted by the department to file on a seasonal basis, which will only require the filing of monthly sales tax returns for the specific months the merchant is actually open for business.

If filing on a monthly basis, sales tax returns are due on the 30th day of the month following the close of the reporting period, unless the average monthly tax due for the preceding year is in excess of \$1,000.00, in which case the returns must be filed by the 20th day of the month following the close of the reporting period. Sales tax returns can be filed using the department's online e-services portal, called the Indiana Taxpayer Information Management Engine (INTIME), which can be accessed at intime.dor.in.gov. Even if no tax is due for a particular period, a return must still be filed (called a "zero return").

Retail merchants making retail transactions without having a Retail Merchant Certificate (or one that has been revoked or suspended by the department) are subject to imprisonment and a fine (Class A misdemeanor). Failure to remit any taxes collected by any retail merchant to the department or a department representative upon demand may, also, subject the merchant to a longer prison term and a higher fine (Level 6 felony). These criminal penalties are in addition to civil sanctions prescribed by IC 6-8.1-8. In particular, if a retail merchant fails to remit the tax collected, a notice of tax due will be issued, based on the best information available. Failure to pay the tax due could result in a levy against the merchant's property.

NOTE: There are many other transactional taxes that a transient merchant may be required to collect. For instance, the sale of prepared food may be subject to a food and beverage tax if sold in a county or municipality with such a tax. A merchant can register for other tax types using INBiz as well.

Individual Income Tax

Tax is imposed on a nonresident's adjusted gross income derived from sources within Indiana. While nonresidents from states having reciprocal agreements with Indiana are not subject to Indiana adjusted gross income tax, such reciprocal agreements only apply to salaries, wages, tips, and commissions. Therefore, reciprocity is not applicable to proceeds from a transient merchant's sales.

A taxpayer is required to make a declaration of estimated tax if the taxpayer expects to owe \$1,000 or more in income tax for that year. The department is allowed to make an immediate assessment

of tax, interest, and penalties if it is determined that a taxpayer intends to: depart the state, remove his property, conceal his person or property, or to do anything to jeopardize, prejudice, or render ineffective, proceedings to collect the tax. If the tax is not paid upon demand, a warrant will be issued. Refusal to pay the warrant can result in a levy against the taxpayer's property.

If you have any questions concerning this bulletin, please contact the Tax Policy Division at taxpolicy@dor.in.gov.

A handwritten signature in black ink that reads "Robert J. Grennes, Jr." The signature is written in a cursive style with a large, looped initial 'R' and a distinct 'J'.

Robert J. Grennes, Jr.
Commissioner
Indiana Department of Revenue