

INFORMATION BULLETIN #13

SALES TAX

JANUARY 2012

(Replaces Information Bulletin #13 dated June 2002)

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information, which is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Application of Sales Tax to Newspaper Publishers

REFERENCES: IC 6-2.5-5-3; IC 6-2.5-5-5.1; IC 6-2.5-5-6; IC 6-2.5-5-17; IC 6-2.5-5-31; 45 IAC 2.2-5-8; 45 IAC 2.2-5-14; 45 IAC 2.2-5-26

DIGEST: Aside from technical, nonsubstantive changes, this version of the bulletin has been changed from the previous version in two ways. First, language has been included in this version that informs taxpayers of the 18-month limitation on refund claims related to utilities used in manufacturing. Second, this version has incorporated a section related to free-distribution newspapers that was previously located in Sales Tax Information Bulletin #69.

I. Newspaper Exemption

Indiana law provides an exemption from sales tax for transactions involving the sale of newspapers. For purposes of the exemption, the term “newspapers” shall mean only those publications that are

1. Commonly understood to be newspapers;
2. Circulated among the general public;
3. Published at stated short intervals; and
4. Entered or qualified to be admitted and entered as second class mail matter at a post office in the county where published.

Publications that are primarily devoted to matters of specialized interest such as business, political, religious, or sporting matters may qualify as newspapers if they also satisfy the aforementioned criteria.

Magazines are not considered to be newspapers. The retail sales of all magazines and periodicals are subject to the sales tax. Sales of magazines by subscription are subject to sales tax without regard to the price of a single copy. Sales tax must be collected on the full subscription price by the seller from the person who subscribes to the magazine.

II. Newspaper Insert Exemption

For purposes of sales tax, the term “newspapers” includes advertising inserts. The term “advertising inserts” means only those publications that are

1. Produced for a person by a private printer and delivered to the newspaper publisher, produced and printed by a newspaper publisher, or produced and printed by a person and delivered to the newspaper publisher; and
2. Inserted by the newspaper publisher into the newspapers and distributed along with the newspapers.

Any distribution not meeting the previous test does not qualify for the newspaper insert exemption. Examples of items distributed with a newspaper that would not qualify for the newspaper insert exemption include gum, shampoo, and detergent samples.

III. Display Space

Sales of classified or display advertising space in a newspaper is not subject to sales tax.

IV. Sales Through a Syndicated Column

Transactions involving tangible personal property sold through a syndicated column for which the newspaper acts only as a forwarding agent are subject to tax. The seller, not the newspaper, is responsible for collecting the tax in this scenario. However, if the newspaper acts as an agent for the seller, or if the payment is made directly to the newspaper rather than to the seller, the newspaper must collect and remit sales tax on such transactions.

V. Manufacturer’s Exemption

Indiana law also provides an exemption from sales tax for transactions involving purchases of machinery, tools, and equipment that are directly used in the direct production of tangible personal property, and for purchases of materials directly consumed or directly incorporated in direct production. This exemption applies to purchases of utilities consumed in direct production.

NOTE: A refund claim based on the exemption provided for utilities used in the production process may not cover transactions that occur more than 18 months before the date of the refund claim.

Tangible personal property purchased to be used, consumed, or incorporated directly in the direct production of newspapers qualifies in the same manner for an exemption as purchases of any other tangible personal property used, consumed, or incorporated in manufacturing or production.

Production of the newspaper is considered to begin at the point at which news is gathered and ends with the packaging of the newspaper. Cameras, darkrooms, or supplies used to take photographs; computers or other equipment used to record stories; and equipment used to transmit or receive copy are considered to be used directly in the direct production of the newspapers.

VI. Tax Exemption for Items Purchased for Free Distribution Newspapers

IC 6-2.5-5-31(d) provides an exemption from sales tax for transactions involving a free-distribution newspaper or of printing services performed in publishing a free-distribution newspaper if the purchaser is the publisher of the free-distribution newspaper. IC 6-2.5-5-31(c) provides a corresponding exemption from sales tax for transactions involving manufacturing machinery, tools, and equipment and other tangible personal property if the person acquiring that property acquires it for direct use or for direct consumption as a material to be consumed in that person's direct production or publication of a free-distribution newspaper or for incorporation as a material part of a free-distribution newspaper published by that person.

The term "free-distribution newspaper" includes qualifying community newspapers, shopping papers, shoppers' consumer papers, pennysavers, shopping guides, town criers, dollar stretchers, or other similar publications. To qualify, the newspaper must be distributed to the public on a community-wide basis, free of charge; be published at stated intervals of at least once a month; have continuity as to title and general nature of content from issue to issue; not constitute a book, either singly or when successive issues are put together; contain news of general or community interest, community notices, or editorial commentary by different authors in each issue; and must not be owned by, or under the control of, the owners or lessees of a shopping center, a merchant's association, or a business that sells property or services (other than advertising) whose advertisements for their sales of property or services constitute the predominant advertising in the

publication. A free-distribution newspaper may contain advertisements from numerous unrelated advertisers in each issue. The term “free-distribution newspaper” also does not include mail order catalogs or other catalogs, advertising fliers, travel brochures, theater programs, telephone directories, restaurant guides, shopping center advertising sheets, and similar publications.

A handwritten signature in black ink that reads "John Eckart". The signature is written in a cursive style with a large, looping initial "J".

John Eckart
Commissioner