



Economic
Development
Corporation

VIA EMAIL

October 31, 2024

Bruce R. Kolb
Senior Legal Counsel
Indiana Department of Revenue
100 N. Senate Ave., N. 248, MS-102
Indianapolis, Indiana 46204

Re: LSA Document #24-432/Regulatory Analysis-Small Business Economic Impact Statement

Dear Mr. Kolb,

Pursuant to Indiana Code 4-22-2.1-5(c)(2), as the Small Business Ombudsman for the state of Indiana, I have reviewed the proposed rule and regulatory analysis associated with the rule changes contained in LSA Document #24-432 (proposed rule) submitted to the Indiana Small Business Ombudsman by the Indiana Department of Revenue (DOR). I have found the following to be true.

Proposed rule LSA #24-432 strips and inserts a new section of Indiana Administrative Code (IAC) under code cite of 45 IAC 3.1-1-55.5. This strip and insert effectively replaces 45 IAC 3.1-1-55. Within the new code cite, the DOR provides definitions of what constitutes the special tax regulations that this rule would be applicable to, including "Airline rule", "Construction contractor rule", Multistate Tax Commission Multistate General Allocation and Apportionment Regulation (MGAAR)" and other special rules which this regulation encompasses, as well as specific instances in which the proposed rule would not be applicable. Additionally, the proposed rule outlines guidance and regulatory application for the special rules found within as they relate to taxation. The proposed rule appears to be a finalization of the emergency rule enacted following codification of the Indiana Code (IC) 6-3-2-2, established within Senate Enrolled Act 563-2019, section 7. The scope of the rule is intended to administratively codify how the state will treat transactions of most services and other intangibles, and simplify the determination of whether receipts are sourced to Indiana or elsewhere.

The DOR's provided regulatory analysis displays a proper due diligence, clear background and understanding of how implementation must be carried out to ensure compliance. The impact to small businesses by the proposed rule appears to be minimal, if any, as no new fines or fees are being imposed. Rather, DOR believes the applicable industries are expected to already be in compliance due to the enactment of the IC code cite and previous emergency rule in 2019. The proposed rule will also provide clarity to how Indiana carries out the Multistate General Allocation and Apportionment Regulations as authorized by the Multistate Tax Commission. Based upon this statement and review, the Indiana Small Business Ombudsman supports the proposed rule related to the economic impact on small businesses if the DOR's conclusion reflects the actual result after promulgation. If there are any questions about these comments, please contact me at ombudsman@iedc.in.gov.

Sincerely,

[Name]
[Date]
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Matt Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation