

INFORMATION BULLETIN #41

SALES TAX

DECEMBER, 2002

(Replaces Information Bulletin #41, dated October, 2000)

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 that is inconsistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, information provided in this Bulletin should only serve as a foundation for further investigation and study of the current law and procedures related to its subject matter.

SUBJECT: Sales Tax Application to Furnishing of Accommodations

REFERENCES: IC 6-2.5-4-4; 45 IAC 2.2-4-8; 45 IAC 2.2-4-9

INTRODUCTION:

Indiana sales tax applies to the rental of rooms, lodgings, camping space, or other accommodations in Indiana furnished by any person engaged in the business of renting or furnishing such accommodations for periods of less than thirty (30) days. Persons furnishing such accommodations must register as a retail merchant and must collect sales tax from their customers.

I. Definition of Accommodations

"Accommodation" means any space, facility, structure, or combination thereof including booths, display spaces and banquet facilities, together with all associated real or personal property which is intended for occupancy by persons for a period of less than thirty (30) days. The term includes the following:

- Rooms in hotels, motels, lodges, ranches, villas, apartments, houses, bed and breakfast establishments, and vacation homes or resorts.
- Gymnasiums, coliseums, banquet halls, ball rooms, arenas, and other similar accommodations regularly offered for rent.
- Cabins or cottages.
- Tents or trailers (when situated in place).
- Houseboats and other craft with over night facilities.
- Space in camper parks and trailer parks wherein spaces are regularly offered for rent for periods of less than thirty (30) days.
- The renting or furnishing of cubicles or spaces used for adult relaxation, massage, modeling, dancing, or other entertainment to another person.

II. Imposition of Tax

The tax is imposed on the gross receipts received by the retail merchant and include the amount which represents consideration for the rendition of those services which are essential to the furnishing of the accommodation, and those services which are regularly provided in furnishing the room or accommodation. Such amounts are subject to tax even if they are separately itemized on the statement or invoice. This includes telephone access charges. It also includes food or drinks provided by the retail merchant to the customer, if it is included in the room charge. If there is a membership fee charged to the customer, it is included in gross receipts.

III. Exemptions from the Tax

An accommodation that is rented for thirty (30) days or more is not subject to the sales tax. The customer is required to pay the tax for the first thirty (30) days if the customer is billed on less than a monthly basis.

EXAMPLE:

A business rents accommodations for its employees and signs a lease for four months, payable monthly, the first thirty (30) days would not be subject to tax.

Same situation as above; however the business pays the rental on a weekly basis. The business is required to pay sales tax on the first thirty (30) days of rental.

If an entity rents the rooms for employees, the entity is renting the rooms and not the person who stays in the room. The contract would not have to be for a specific room as long as the continuous stay portion of the contract remains in effect.

EXAMPLE:

An innkeeper moves two occupants of rooms rented on an extended stay to make a contiguous area available for a convention that wants all of their rooms together. Moving the people in the extended stay contract does not void the contract.

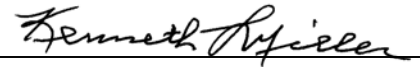
The tax does not apply to the rental of meeting rooms to charitable or other exempt organizations if the facility is to be used for furtherance of the purpose for which they are granted the exemption.

A person is not a retail merchant if the person is a promoter that rents a booth or display space in a facility that is operated by a political subdivision (including a capital improvement board established under IC 36-10-8 or IC 36-10-9) or the state fair commission. However, this does not exempt the renting of accommodations by a political subdivision or the state fair commission to a promoter or an exhibitor.

NOTE: All exemptions applicable to the sales tax apply to the various innkeepers' taxes.

IV. Subleasing Accommodations

The rental of rooms, lodgings, camping space or other accommodations to a person for periods of less than thirty (30) days for the purpose of subleasing or subletting such accommodations to others, may be done exempt from tax. However, in such situations, the sublessor must register as an Indiana retail merchant and must collect the tax from the person to whom the accommodation is ultimately leased.



Kenneth L. Miller
Commissioner