BIZTAX

November 2013

Business Education Program

Selecting a Tax Preparer

Composite Filing Opt-Out

BizTax
November 2013

A Publication for Indiana Businesses

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You also can download the entire issue or just selected pages as PDF documents. Just click the Download button—the fifth button from the left that looks like a downward-pointing arrow with a line underneath it. This opens the issue as a PDF, which you can then save or print.

INDIANA
A State that Works

contents

BUSINESS EDUCATION

Small Business Education Program

Understanding taxes is one of the biggest challenges facing small businesses, and yet, small businesses in Indiana provide nearly 80 percent of the sales and withholding tax revenue to the state. When businesses, especially small businesses, have difficulty with the department it is often a result of not understanding how to follow regulations regarding filing and paying taxes in Indiana.

The department believes these businesses could thrive with better taxpayer education. To better serve small and new businesses in Indiana, the department is establishing an outreach effort to educate businesses about business taxes, which will include new and updated resources along with a new speaker series.

For the speaker series, the department will offer free seminars on basic business taxes in Indiana with a focus on new business ventures and entrepreneurs. The seminars will work with community organizations to hold the events and effectively reach businesses throughout the state.

Through these seminars, attendees will learn about essential business taxes, including sales tax and income tax withholding. In addition, attendees will have the opportunity to network with community business members and have questions answered by a department representative.

Additionally, the department is working to update and revamp the new and small business education center's website. New resources, including a business tax handbook, will be available in 2014 for Hoosier business owners.

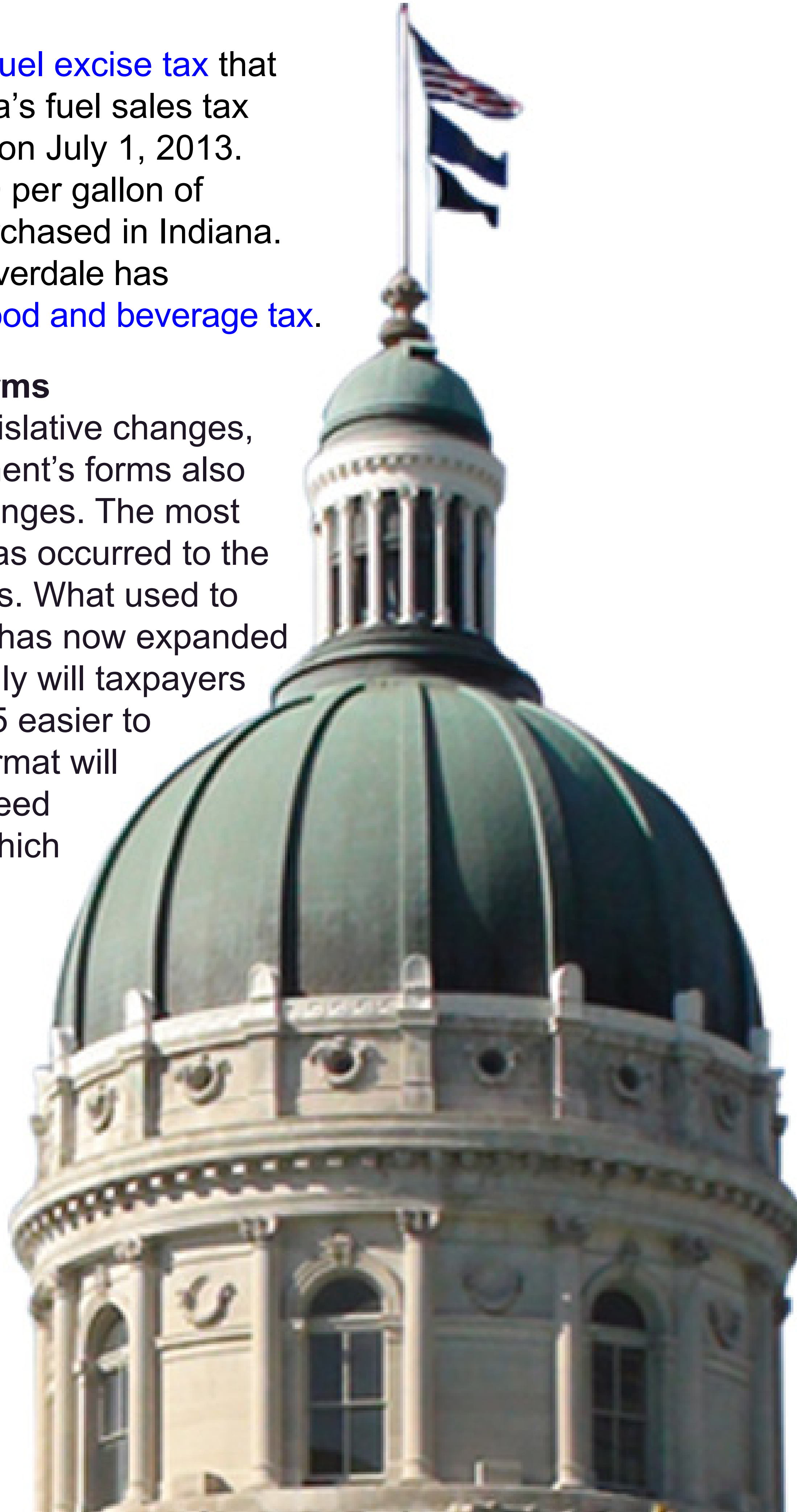
If you or your organization is interested in hosting a seminar, please contact the department at (317) 234-5432.

Coming Tax Changes

In a few short months, many businesses will begin the process of filing their Indiana tax returns. With that in mind, let's look at some of the key changes to Indiana's tax laws and to the tax forms you'll use to file your taxes:

- Several addbacks have been eliminated and no longer have to be added back when determining adjusted gross income:
  - Qualified restaurant property, qualified leasehold property, qualified retail improvement property, and seven-year property for a motorsports entertainment complex
  - Expensing of environmental remediation costs
  - Qualified advanced mine safety equipment
  - Additional business startup expenditures
  - Oil and gas well depletion deduction
  - Qualified electric utility amortization
- The School Scholarship Credit can now be carried forward for nine years after the unused credit year, and the cap on this credit has increased from $5 million to $7.5 million.
- The Coal Combustion Credit has been repealed.
- The financial institutions tax is being reduced. The current rate is 8.5%, but it will decrease to 8% on Jan. 1, 2014.
- Truck stop owners now must obtain a truck stop owner's license from the department.

- A new aviation fuel excise tax that replaced Indiana's fuel sales tax went into effect on July 1, 2013. The tax is $0.10 per gallon of aviation fuel purchased in Indiana.
- The town of Cloverdale has adopted a 1% food and beverage tax.



Changes to the Forms

In addition to the legislative changes, some of the department's forms also have undergone changes. The most significant change has occurred to the IT-65 for partnerships. What used to be a one-page form has now expanded to two pages. Not only will taxpayers find the revised IT-65 easier to read, but the new format will also increase the speed and accuracy with which the department can process it.

The IT-65, as well as the IT-20S, has a new line for reporting the withholding taxes the partnership or S corporation has paid for nonresident members who have opted out of the composite return. This change in department procedure enables nonresident partners and shareholders to opt out of the composite filing. When that happens, the partnership or S corporation will use the newly created Form IT-6WTH to file and remit the withholding taxes for those members. For a more detailed explanation of opting out of the composite return, visit www.in.gov/dor/4918.htm or see page 12.

Taxpayers will also notice two new lines on all of the major corporate returns (IT-20, IT-20S, IT-65, IT-20NP, and FIT-20). The EDGE and EDGE-R credits each has its own line on the returns now. There's also a new schedule that taxpayers claiming these credits will need to complete and submit.

Also, the bottom section of each of the returns, where information for paid preparers and personal representatives is listed, has been reorganized to help taxpayers more easily enter the information.

For a complete listing of all the changes for 2013, and changes that go into effect in 2014, visit the department's Legislative Summaries webpage (www.in.gov/dor/3656.htm) and click the link for the 2013 summary.

WH-3 Time

The WH-3 (Annual Withholding Reconciliation Form) is a reconciliation form for the amount of state and county income taxes withheld throughout the year. This form must be filed on or before the last day in February. Any business who files more than 25 W-2, W-2G, 1099-R, or WH-18 wage statements must file them electronically according to Indiana law (IC 6-3-4-16.5).

Businesses that issue between 1 and 50 wage statements in a calendar year can register for INtax and file electronically by manually entering each W-2 into INtax. A valid Indiana Taxpayer Identification number (TID) is required.

Businesses that issue between 51 and 3,500 wage statements in a calendar year can register for INtax and upload a text file in the required format. A valid TID and text file in the prescribed SSA EFW2 are required. Service providers must register all clients.

Businesses that issue between 51 and 3,500 wage statements in a calendar year also can register for INtax and batch upload statements. Batch upload submitters must be pre-registered and certified to use the system.

For more information on how to submit these wage statements, visit www.in.gov/dor/4455.htm.

Business e-Mandate Continues for Annual Filers

Last year, the Indiana General Assembly passed a law that required all sales and withholding tax returns to be filed and paid electronically.

This includes the more than 40,000 taxpayers who file once a year, also known as annual filers. For annual filers, this means that the sales and withholding taxes due in January for the year 2013 are required to be filed electronically through either a third-party vendor or INtax.

Businesses must either request an exemption – or file and pay electronically. They can do this by using either a third-party vendor or INtax. With the INtax online filing and payment system, businesses can easily and quickly file and pay sales and withholding taxes.

With INtax, businesses can do many things, including:

- Access past filings and payments 24/7.
- Submit timely payments by electronic check or credit card.
- Manage most business tax accounts from one convenient and secure application.

If your business needs assistance with registering in INtax or would like to request an exemption application, call the department's special INtax Hotline at (317) 232-2337 during regular business hours (8 a.m. – 4:30 p.m.), Monday through Friday.

To get started with INtax, visit www.intax.in.gov. For more information about the e-mandate, visit www.in.gov/dor/4336.htm.

Need an Exemption?

If you are not able to file and pay your taxes electronically, see if you qualify for an exemption from this requirement by completing and submitting a Business Exemption Form (BT-EX). The department will only mail coupons to those who have an exemption.

You may qualify for an exemption to this e-mandate if:

- Your organization's policy does not allow for electronic filing and/or paying
- You do not have access to the Internet,
- You are unable to electronically file or pay because of religious beliefs

The department understands not everyone can follow this e-mandate, but it is important that you complete and submit the BT-EX as soon as possible. To request the BT-EX, call (317) 232-2337.

Composite Filing Opt-out

The department is providing an option for nonresident shareholders and partners to opt out of the mandatory composite filing. To opt out, the non-Indiana resident individual must fill out form IN-COMPA and submit it to the S corporation or partnership.

The pass-through entity will still need to enter on the composite return the names of those members who are opting out. Now, though, the composite return will have a check box to indicate the individual has opted out of the composite filing. The partnership or S corporation must keep a copy of the IN-COMPA for its records and make it available to the department upon request.

Effective Jan. 1, 2013, partnerships and S corporations that are filing on a composite basis will remit the withholding on Indiana distributions directly into the corporate account by using form IT-6WTH. Payment is due the 15th day of the 4th month following the close of the corporate account period. More than one composite withholding payment may be remitted. An additional line has been added to each corporate return to allow the total payment(s) to be claimed as a credit.

If the withholding payment(s) is greater than the tax due, a refund will be issued to the partnership or S corporation. If the withholding payment(s) is less than the tax due, the difference is due when the partnership or S corporation return is filed. Payments made after the due date are subject to late penalty and interest.

For partners and shareholders who opt out of the composite filing, the partnership or S corporation must remit the withholding on Indiana distributions into a nonresident withholding account. S corporations and partnerships can complete the BT-1 application online (www.in.gov/dor/4337.htm) to create a nonresident withholding account if they do not currently have one.

The S corporation or partnership must file Form WH-1 electronically to report the withholding due and to remit payment. The S corporation or partnership must provide Form WH-18 to each non-Indiana individual resident who opts out of the composite filing. The WH-18 will show the amount of tax the S corporation or partnership withheld on the individual's behalf. In addition, the S corporation or partnership must file a copy of the WH-18 with its WH-3, which is used to recap the WH-1.

The procedure for filing and remitting withholding for shareholders and partners that are other entities (not individuals) is the same as the procedure for nonresident individuals: the S corporation or partnership must remit the withholding on the Indiana distribution into a nonresident withholding account, file Form WH-1 electronically, provide Form WH-18 to each entity, and file a copy of the WH-18 with the WH-3.

Form IT-41 is not included in the mandatory composite filing; however, the return may take advantage of remitting withholding payment(s) into the trust account when a composite return is filed. The trust will use Form IT-41ES to remit the withholding payment(s) that will be

claimed on the return as fiduciary estimated tax paid. Trusts do not need to use Form IN-COMPA to opt out of the composite filing. However, the Indiana K-1 provided to each beneficiary must be enclosed with the IT-41 when filed. The composite worksheet must be completed to include the beneficiaries who qualify and request to be included in the composite filing.

For more information about composite filing, contact the department at (317) 232-0129.

Selecting the Right Tax Preparer

Selecting a tax preparer is a challenging decision. The stakes are high, the qualifications can be confusing, and navigating business taxes is already one of the biggest challenges for new and small businesses. There are several things to consider when selecting a tax preparer.

Qualifications and History

Check the tax preparer's qualifications and history. Ensure that the tax preparer has a Preparer Tax Identification Number (PTIN). IRS regulations require all paid tax return preparers to have a PTIN. In addition to having a PTIN, ask if the preparer is affiliated with a professional organization that requires members to attend continuing education classes and abide by a code of ethics.

To review the tax preparer's history, check to see if the IRS has a permanent injunction prohibiting the preparer from preparing federal tax returns. Check to see whether the preparer has any questionable history with the Better Business Bureau, the state's board of accountancy for CPAs, the state's bar association for attorneys, and the IRS Office of Enrollment for enrolled agents.

Ask the tax preparer for references and talk to others who have used the preparer. See if clients were satisfied and if the tax preparer responded to clients in a reasonable amount of time.

Services and Fees

Find out about the tax preparer's service fees and electronic services before the return is prepared. Make sure the tax preparer is accessible and can be contacted after the due date in case questions arise. Avoid preparers who base their fee on a percentage of the refund or who claim they can obtain larger refunds than other preparers.

Ask if the tax preparer offers electronic filing. Any paid preparer who prepares and files more than 10 returns for clients must file the returns electronically, unless the client opts to file a paper return. This indicates the preparer has many clients. Additionally, electronic filing is safe and secure.

Filing and Paperwork

When the time comes to file, reputable preparers will request to see records and receipts and will ask multiple questions to determine total income and qualifications for expenses, deductions and other items.

Always review the return, ask questions, and ensure its accuracy before signing it. Never sign a blank return, and avoid tax preparers who ask for signatures on blank forms. Make sure the preparer signs the form and includes his or her PTIN as required by law. The preparer must also give you a copy of your return. Although the preparer signs the return, you are responsible for the accuracy of every item on the return.

In addition to following the above guidelines, you can find local tax professionals who are members of the Indiana CPA Society or the Indiana Society of Enrolled Agents online.

Types of Tax Practitioners

Registered tax return preparers (RTRPs) have limited practice rights and may only represent clients whose returns they prepared and signed and only at the initial audit level. RTRPs passed an IRS competency test on Form 1040 tax preparation.

Enrolled agents are licensed by the IRS and specifically trained in federal tax planning, preparation, and representation. Enrolled agents hold the most expansive license the IRS grants and pass a suitability check, a three-part Special Enrollment Examination, and a comprehensive exam. They complete 72 hours of continuing education every three years.

Certified public accountants are licensed by state boards of accountancy and have passed the Uniform CPA Examination. They must meet education, experience, and good character requirements established by their boards of accountancy. CPAs must comply with ethical requirements as well as complete specified levels of continuing education to maintain an active CPA license.

Attorneys are licensed by state courts or their designees, such as the state bar. Requirements often include completion of a degree in law, passage of an ethics and bar exam, and ongoing continuing education. Some attorneys specialize in tax preparation and planning.

For more information about the various types of practitioners, click here.

DEPARTMENTAL NOTICE

Departmental Notice Has LOIT Rate Changes

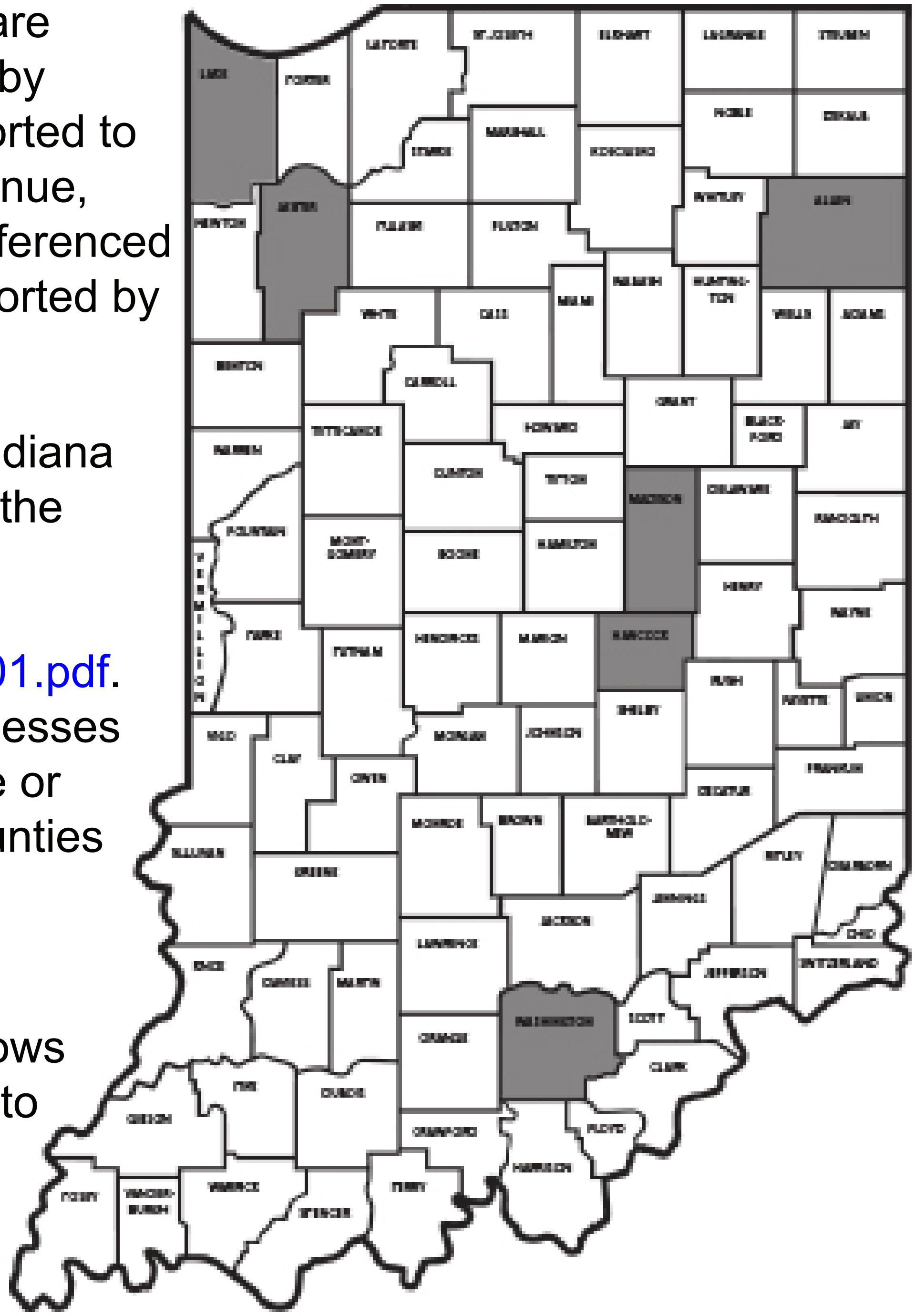
Allen, Hancock, Jasper, Madison, and Washington counties changed their county income tax rates, which were effective Oct. 1, 2013. In addition, Lake County has adopted a county income tax effective Oct. 1, 2013.

The changes for Allen, Jasper, Madison, and Washington counties are as follows:

- Allen – The resident rate has increased from .01 to .0135. The nonresident rate has increased from 0.0055 to 0.006375.
- Hancock – The resident rate has increased from .0155 to .0165. The nonresident rate has increased from .0035 to .0045.
- Jasper – The resident rate has decreased from .03114 to .02964.
- Madison – The nonresident rate has decreased from .00625 to .004375.
- Washington – The resident rate has increased from .015 to .02.

In addition, Lake County is the final county in Indiana to adopt a county income tax. Lake County has adopted a resident rate of .015 and a nonresident rate of .005, effective Oct. 1, 2013. For more information about Lake County's new rate, click here.

Local income tax rates are established or adjusted by county officials and reported to the Department of Revenue, where they are cross-referenced to ensure they are supported by Indiana law.



The list of rates for all Indiana counties is available on the Indiana Department of Revenue's website at www.in.gov/dor/files/dn01.pdf. These rates affect businesses with employees who live or work in any of these counties and have income tax withholdings.

The Indiana law that allows counties' local tax rates to change throughout the year has new effective dates, per the 2013 legislation. Now, rates adopted by the county:

- After Dec.31 and before Sept. 1 take effect on Oct. 1.
- After Aug. 31 and before Nov. 1 take effect on Jan. 1 of the following year.

Keep an eye on the department's website in case changes take effect on Jan. 1, 2014. And remember—any rate changes that are effective on Jan. 1, 2014, will not have any impact on the 2013 individual income tax filing.

Fuel Tax Changes

The 2013 legislative session brought many changes to the Indiana tax code. In particular, the gas sales tax and aviation fuel sales tax were updated, bringing a competitive edge to Indiana's marketplace.

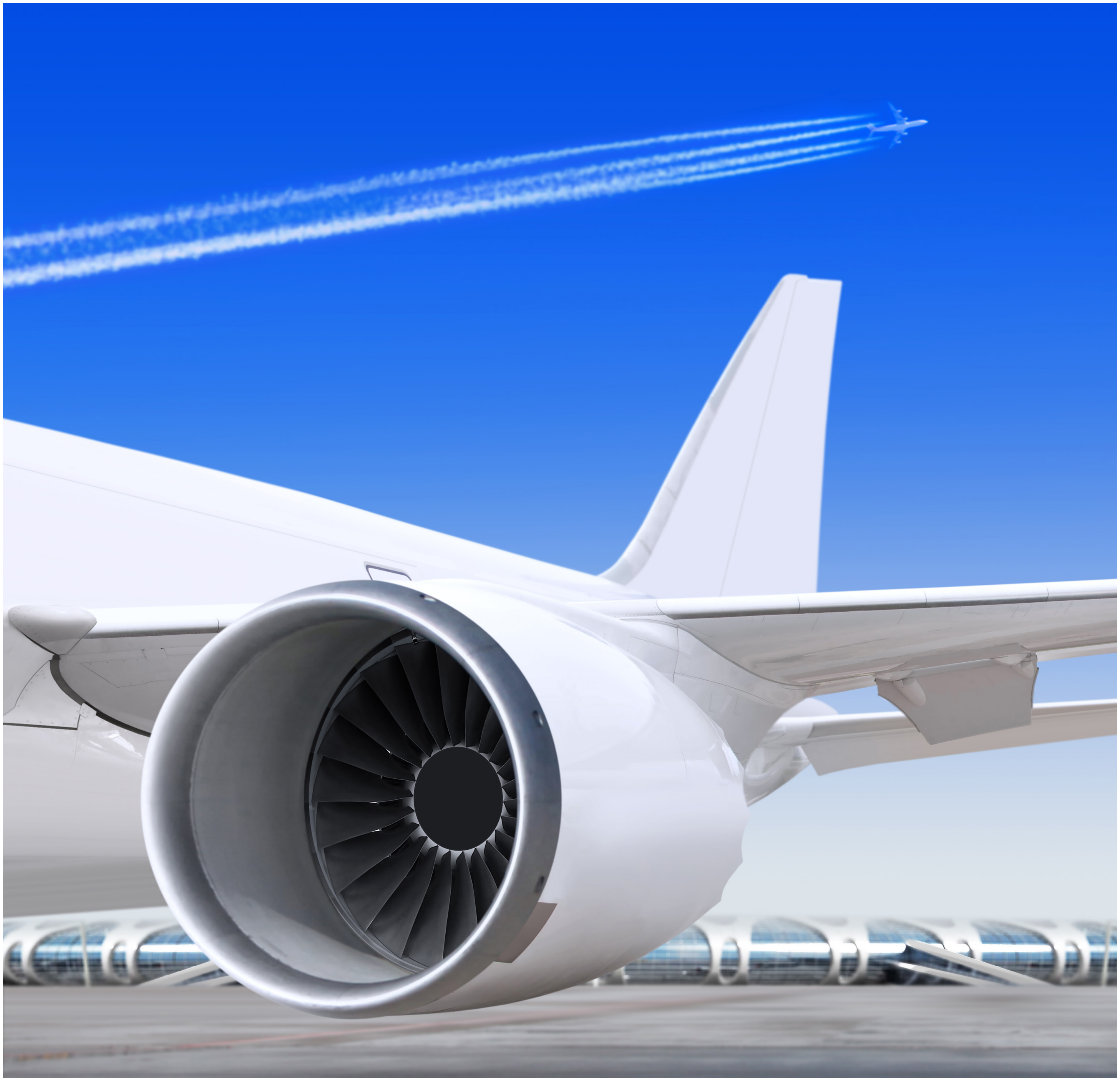
Now's the Time to Fly – Aviation Fuel Sales Tax Replaced by Excise Tax

Pilots touching down to refuel in Indiana have seen a change in fuel costs as Indiana's aviation fuel sales tax was replaced by an aviation fuel excise tax. The Indiana General Assembly passed a law that establishes the fuel excise tax, which went into effect July 1, 2013.

The bill eliminated the fuel sales tax, which saves aircraft owners about 40 cents per gallon. The new aviation fuel excise tax is a flat rate of 10 cents per gallon and is for aviation fuel, which is gasoline, jet fuel, or a synthetic fuel used to power an aircraft.

Additionally, the legislation eliminated certain criteria to be eligible for a sales tax exemption on the repair and maintenance of aircraft systems. The old taxes stifled Indiana's aviation businesses, and routed aircraft owners out of Indiana to avoid some of the highest fuel and repair taxes in the country.

Consumers are exempt from paying the tax if the fuel is placed into the supply tank of an aircraft owned by:

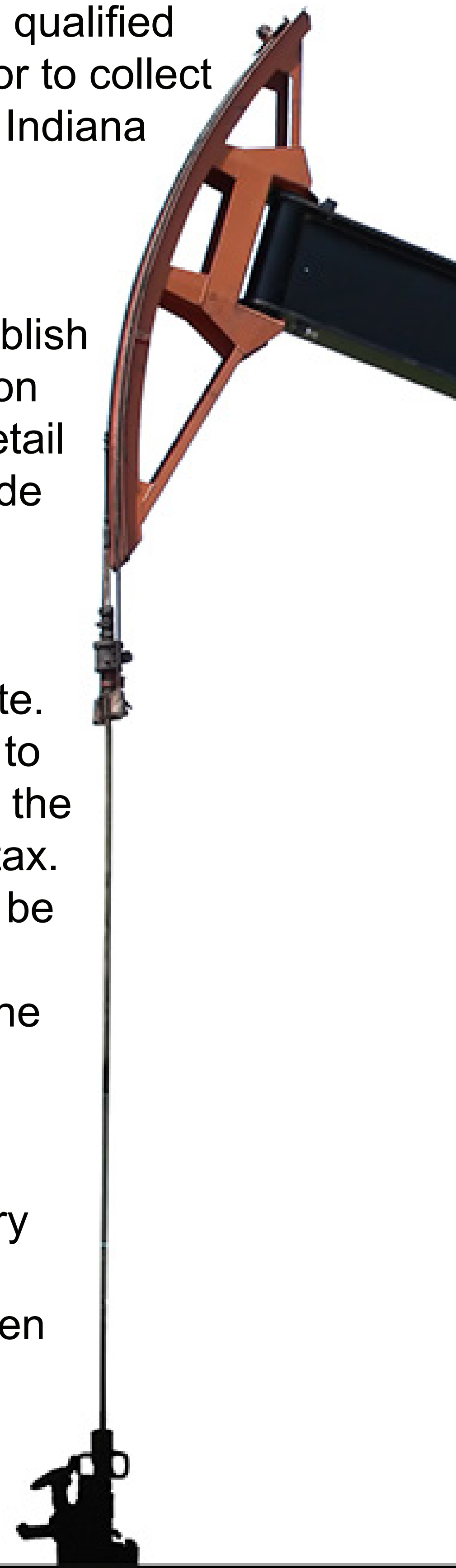


the United States or its instrumentalities, the state of Indiana, the Indiana Air National Guard, or a common carrier of passengers or freight. To be exempt, the consumer needs to show an exemption certificate to the retailer.

For more information about the aviation fuel excise tax, see the Indiana Department of Revenue Commissioner Directive #49.

Retail Merchants – Gasoline Sales Tax Eliminated in July 2014

Retail merchants in Indiana will no longer be obligated to collect sales tax on gasoline sales, beginning July 1, 2014. The general assembly passed new legislation effective July 1, 2014, that requires a qualified distributor, refiner, or terminal operator to collect and remit the gasoline use tax to the Indiana Department of Revenue, eliminating the burden on retail merchants.



The department will calculate and publish the new use tax rate monthly based on 7 percent of the statewide average retail price of gasoline. This does not include state and federal excise taxes.

A list of qualified distributors will be published on the department's website. Qualified distributors will be required to remit the use tax semi-monthly using the department's online filing system–INtax. Additionally, qualified distributors will be required to file a report covering the taxes owed and the gallons of gasoline sold during the preceding month.

To implement the legislation, each retail merchant must take an inventory of gasoline they have in storage on July 1, 2014. Each retail merchant then will be required to remit to the department an amount equal to the number of gallons of gasoline in storage multiplied by the gasoline use tax rate in effect on July 1, 2014. The tax due must be remitted on or before Aug. 1, 2014.

For more information about these legislative changes and more, see the 2013 Legislative Synopsis.

Great Resources!

There are several resources on the Indiana Department of Revenue's website that provide taxpayers with detailed information about what the laws passed mean to business taxpayers. These resources include income and sales tax information bulletins, departmental notices, and commissioner's directives.

To further assist businesses, the department has highlighted three sales tax information bulletins and a commissioner's directive below.

Sales Tax Information Bulletin #8

Sale, Rental, Lease of Computer Hardware, Software

This bulletin explains the application of Indiana sales tax to the sale, lease, or rental of computer hardware and software. As a general rule, such sales are subject to tax. However, there are some sales tax exemptions, such as the manufacturing exemption and the research and development exemption, that might apply.

Sales Tax Information Bulletin #29

Sales of Food

This bulletin explains the application of Indiana sales tax to the sale of food. In general, the sale of food or ingredients for human consumption is exempt from tax. This exemption is primarily aimed at "grocery" food. The term "food" is defined as substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated

form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. The term does not include tobacco, alcoholic beverages, candy, dietary supplements, or soft drinks.

Sales Tax Information Bulletin #55

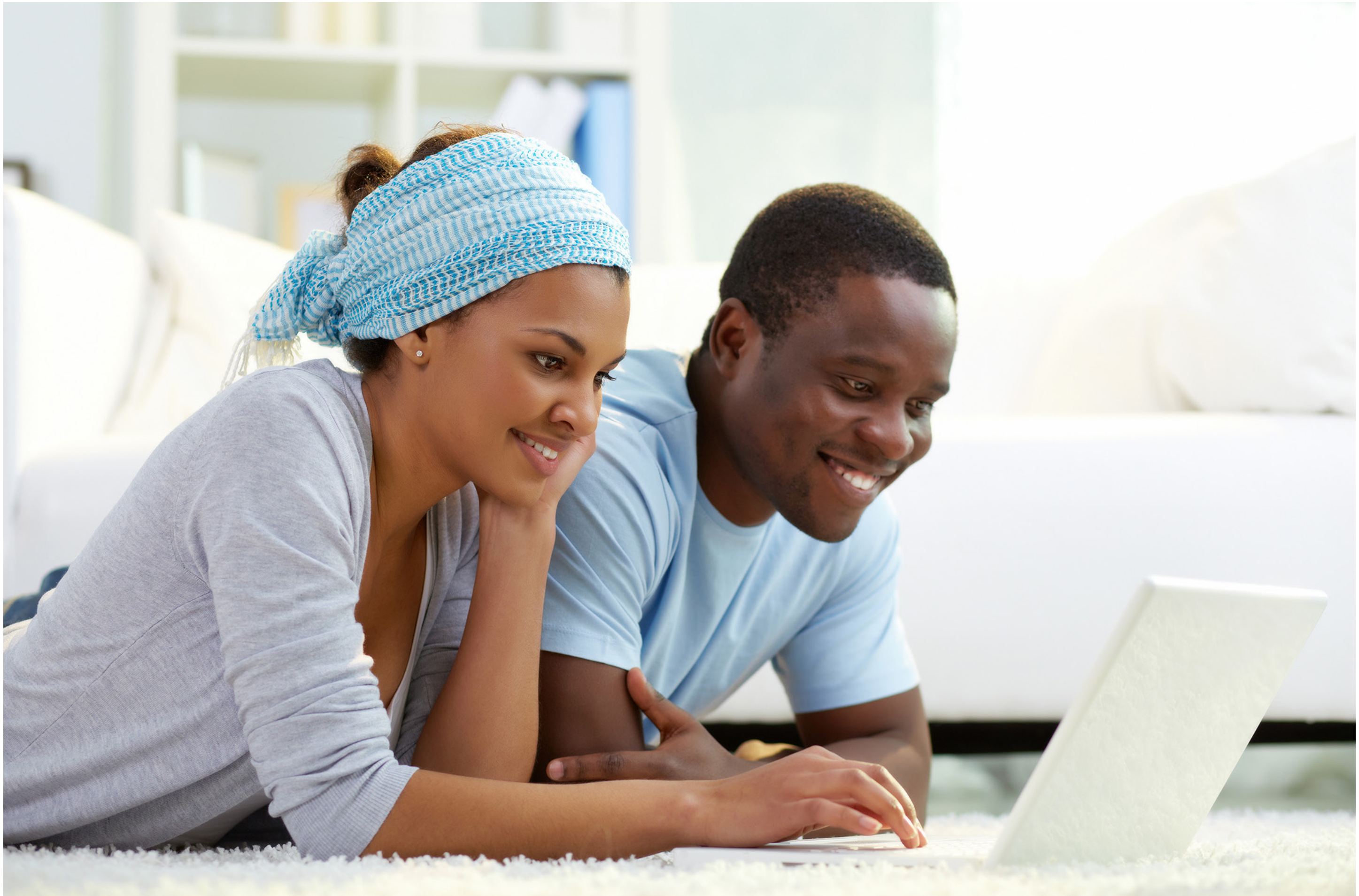
Application of Sales Tax to Sales of Utilities Used in Manufacturing, Production, Recycling, Floriculture, and Arboriculture

This bulletin explains the application of Indiana sales tax to sales of utilities used in an industrial production process. The exemption applies to sales made by a power subsidiary or person engaged as a public utility of electrical energy, natural or artificial gas, water, steam, or steam heat to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. An exemption is available when the utilities are either separately metered or predominantly used in the production process by the purchaser.

Commissioner's Directive #23

Delivery and Installation Charges Subject to Indiana Sales and Use Tax

This directive explains the application of Indiana sales tax to delivery and installation charges. Although separately stated installation charges are exempt from tax, delivery charges generally are subject to tax. However, an exclusion exists for separately stated "postage charges." Postage charges are defined to mean the purchase price of stamps or similar charges for mail or parcel delivery through the United States mail.



Updated Directives, Notices, and Bulletins
Below is a listing of tax bulletins, directives, and notices that have been added or updated since June 2013.

Departmental Notices

1 - How to Compute Withholding for State and County Income Tax
2 - Prepayment of Sales Tax on Gasoline
3 - Interest Rates for Calendar Year 2014
4 - Form Specifications for Software Developers
5 - Reporting Employee Taxes Withheld

Income and Sales Tax Information Bulletins

95 - Hoosier Business Investment Tax Credit
97 - Headquarters Relocation Tax Credit
48 - Sales Tax Application to Medical Profession
75 - Sales Tax Exemption for Research and Development Equipment

Commissioner's Directives

14 - Financial Institutions Tax
18 - Utility Receipts Tax
23 - Delivery and Installation Charges Subject to Indiana Sales and Use Tax (Supercedes Commissioner's Directive #22 issued January 2004)
30 - Local Food and Beverage Taxes
37 - Dishonored Check Penalty Provisions
45 - Repeal of the Inheritance Tax, Estate Tax, and Generation Skipping Tax
47 - Amnesty for Unpaid Use Tax on Claimed Race Horses
49 - Aviation Fuel Excise Tax

And although the information bulletins, departamental notices, and commissioner's directives are not legally binding, they do offer quite a bit of information about these complex taxes.

You can even subsribe to each of the webpages with the documents so that when an update occurs, you will automatically get an email alerting you to the update. To subscribe and look over the current tax bulletins, directives, and notices, visit www.in.gov/dor/3330.htm.

ALL businesses in Indiana must file and pay their sales and withholding taxes electronically.

The easiest way businesses can electronically file and pay these taxes is through Indiana's free online program INtax.

www.intax.in.gov

Learn how to register and use INtax by downloading the "INtax QuickStart Guide" at www.in.gov/dor/4336.htm.

TAX DEADLINES

Important Dates

In each issue, we highlight some of the key dates for each month. You can find a complete list of tax due dates online at www.in.gov/dor/3344.htm.

Note that if the due date shown falls on a weekend or federal or state holiday, the payment is due on the next business day.

Nov. 10
- Prepaid Sales Tax on Gasoline (Second Filing ST103) due
- Solid Waste Management Fee Return (SW-100) due

Nov. 15
- Special fuel consolidated monthly tax return (SF-900) and first installment payment due
- Other tobacco products return (OTP-M) due

Nov. 19
- The IT40 and IT40PNR due with the federal extension

Nov. 20
- IN wholesalers' excise tax report (Form 710) due
- Special fuel consolidated monthly tax return (SF-900) and second payment due

Nov. 25
- Prepaid sales tax on gasoline (ST-103P) first filing due
- Special fuel transporter return (SF-401) due

Nov. 30

- Indiana business authorization and safety application for Intrastate Carriers (BSA-1 or preprinted BAS-1A) due
- Renewal application for Interstate Carriers (BAS2-UCR) due

Dec. 10

- Prepaid sales tax on gasoline (ST-103P) second filing due
- Solid waste management fee return (SW-100) due

Dec. 15

- Special fuel consolidated monthly tax return(SF 900) and first installment payment due
- Licensed cigarette distributor’s monthly cigarette tax return (CT-5) due
- Corporate adjusted gross income tax quarterly payment (IT-6, FT-QP and URT-QP) due for calendar-year filers

Dec. 20

- IN wholesalers’ excise tax report with schedules (form 710) due
- Charity gaming card excise tax return (GCE-103) due
- Special fuel consolidated monthly tax return (SF-900) and second payment due

Dec. 25

- Prepaid sales tax on gasoline (ST-103P) first filing due
- Special fuel transporter return (SF-401) due

Dec. 31

- Recap of prepaid sales tax by distributors (ST-103DR) due
- Renew OSW Special Weight Registration
- Aircraft dealer registration/renewal (Form 10763) due

Contact Us

It is important for businesses to know the various ways in which they can contact the department if they are in need of help or want to receive critical updates from the department.

When you have a specific question that our website does not answer, you are encouraged to email us by visiting www.in.gov/dor/3392.htm. If you have an immediate concern, however, you can contact the department at (317) 233-4015.

In addition, the department offers several other ways for you to learn about important tax updates at your convenience:

- Become a Facebook fan by clicking here.
- Follow us on Twitter at www.twitter.com/INDeptofRevenue.
- Subscribe to our TaxTalk Blog at www.in.gov/dor/3877.htm.
- Sign up for automatic email updates on the department's website at www.in.gov/dor.
- Subscribe to our New and Small Business Education Center at www.smallbiz.in.gov.

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