February 15, 2012

# ENGROSSED
# HOUSE BILL No. 1325

DIGEST OF HB 1325 (Updated February 14, 2012 11:20 am - DI 58)

**Citations Affected:** IC 6-2.5.

**Synopsis:** Sales and use tax exemptions. Specifies the use tax exemption for certain aircraft when there is an addition to or reconfiguration of the interior of an aircraft. Specifies when delivery occurs. Provides a sales and use tax exemption for transactions involving tangible personal property by a company that is engaged in offering a competitive racing experience in a two-seater Indianapolis 500 style race car during a competitive racing event. Provides an exemption from the state gross retail tax for tangible personal property acquired for the exclusive purpose of complying with the state tobacco tax laws.

**Effective:** January 1, 2009 (retroactive); January 1, 2011 (retroactive); July 1, 2012.


## Pond, Behning, Thompson

(SENATE SPONSORS — HERSHMAN, YOUNG R MICHAEL)



January 11, 2012, read first time and referred to Committee on Ways and Means.
January 25, 2012, amended, reported — Do Pass.
January 30, 2012, read second time, ordered engrossed. Engrossed.
January 31, 2012, read third time, passed. Yeas 89, nays 8.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Tax and Fiscal Policy.
February 14, 2012, amended, reported favorably — Do Pass.


C o p y

February 15, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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# ENGROSSED
# HOUSE BILL No. 1325

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 6-2.5-3-2, AS AMENDED BY P.L.211-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. (a) An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

(b) The use tax is also imposed on the storage, use, or consumption of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or watercraft:

(1) is acquired in a transaction that is an isolated or occasional sale; and

(2) is required to be titled, licensed, or registered by this state for use in Indiana.

(c) The use tax is imposed on the addition of tangible personal property to a structure or facility, if, after its addition, the property becomes part of the real estate on which the structure or facility is

located. However, the use tax does not apply to additions of tangible personal property described in this subsection, if:

(1) the state gross retail or use tax has been previously imposed on the sale or use of that property; or

(2) the ultimate purchaser or recipient of that property would have been exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property from the supplier for addition to the structure or facility.

(d) The use tax is imposed on a person who:

(1) manufactures, fabricates, or assembles tangible personal property from materials either within or outside Indiana; and

(2) uses, stores, distributes, or consumes tangible personal property in Indiana.

(e) Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over tangible personal property, if:

(1) the property is delivered into Indiana by or for the purchaser of the property;

(2) the property is delivered in Indiana for the sole purpose of being processed, printed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property; and

(3) the property is subsequently transported out of state for use solely outside Indiana.

(f) As used in ~~this~~ subsection **(g) and IC 6-2.5-5-42:**

**(1) "completion work" means the addition of tangible personal property to or reconfiguration of the interior of an aircraft, if the work requires the issuance of an airworthiness certificate from the:**

**(A) Federal Aviation Administration; or**

**(B) equivalent foreign regulatory authority;**

**due to the change in the type certification basis of the aircraft resulting from the addition to or reconfiguration of the interior of the aircraft;**

**(2) "delivery" means the physical delivery of the aircraft regardless of who holds title; and**

**(3)** "prepurchase evaluation" means an examination of an aircraft by a potential purchaser for the purpose of obtaining information relevant to the potential purchase of the aircraft.

**(g)** Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over an aircraft, if:

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(1) the aircraft is **or will be** titled, registered, or based (as defined in IC 6-6-6.5-1(m)) in another state or country;

(2) the aircraft is delivered to Indiana by or for a nonresident owner or purchaser of the aircraft;

(3) the aircraft is delivered to Indiana for the sole purpose of being repaired, refurbished, remanufactured, or subjected to **completion work or** a prepurchase evaluation; and

(4) after completion of the repair, refurbishment, remanufacture, **completion work,** or prepurchase evaluation, the aircraft is transported to a destination outside Indiana.

**(h) The amendments made to this section by the act enacted in 2012 shall be interpreted to specify and not to change the general assembly's intent with respect to this section.**

SECTION 2. IC 6-2.5-5-37, AS AMENDED BY P.L.193-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 37. **(a)** Transactions involving tangible personal property are exempt from the state gross retail tax, if the tangible personal property:

(1) is leased, owned, or operated by a professional racing team; and

(2) comprises any part of a professional motor racing vehicle, excluding tires and accessories.

**(b) Transactions involving tangible personal property are exempt from the state gross retail tax, if the tangible personal property:**

**(1) is leased, owned, or operated by a company that is engaged in offering a competitive racing experience during a competitive racing event; and**

**(2) comprises any part of a two-seater Indianapolis 500 style race car, excluding tires and accessories.**

SECTION 3. IC 6-2.5-5-42, AS ADDED BY P.L.211-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 42. (a) A transaction involving an aircraft, **including completion work (as defined in IC 6-2.5-3-2(f)),** is exempt from the state gross retail tax if:

(1) the purchaser is a nonresident;

(2) the purchaser transports the aircraft to a destination outside Indiana within thirty (30) days after:

(A) accepting delivery of the aircraft; ~~or~~

(B) a repair, refurbishment, or remanufacture of the aircraft is completed, if the aircraft remains in Indiana after the purchaser accepts delivery for the purpose of accomplishing

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the repair, refurbishment, or remanufacture of the aircraft; **or (C) accepting delivery (as defined in IC 6-2.5-3-2(f)) of the aircraft following completion work or a prepurchase evaluation (as defined in IC 6-2.5-3-2(f));**

(3) the aircraft **is or** will be:

(A) titled or registered in another state or country; or

(B) based (as defined in IC 6-6-6.5-1(m)) in that state or country, if a state or country does not require a title or registration for aircraft; and

(4) the aircraft will not be titled or registered in Indiana.

(b) A purchaser must claim an exemption under subsection (a) by submitting to the seller an affidavit affirming the elements required by subsection (a). In addition, the affidavit must identify the state or country in which the aircraft **is or** will be titled, registered, or based.

(c) Within sixty (60) days after:

(1) a purchaser who claims an exemption under this section accepts delivery of the aircraft; or

(2) a repair, refurbishment, or remanufacture of the aircraft subject to an exemption under this section is completed, if the aircraft remains in Indiana after the purchaser accepts delivery for the purpose of accomplishing the repair, refurbishment, or remanufacture of the aircraft;

the purchaser shall provide the seller with a copy of the purchaser's title or registration of the aircraft outside Indiana. If the state or country in which the aircraft is based does not require the aircraft to be titled or registered, the purchaser shall provide the seller with a copy of the aircraft registration application for the aircraft as filed with the Federal Aviation Administration.

(d) The department shall prescribe the form of the affidavit required by subsection (b).

**(e) The amendments made to this section by the act enacted in 2012 shall be interpreted to specify and not to change the general assembly's intent with respect to this section.**

SECTION 4. IC 6-2.5-5-45 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 45. Transactions involving tangible personal property (including excise tax meter machines and related accessories, such as re-packers, cutters, and supplies) are exempt from the state gross retail tax if the property is acquired:**

**(1) by a person that is required to affix excise tax stamps under IC 6-7; and**

**(2) for the exclusive purpose of complying with IC 6-7.**

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1 SECTION 5. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1325, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 22, delete "(as defined in IC 6-2.5-3-2(f))".

Page 3, line 23, after "aircraft" insert ";".

Page 3, line 23, delete "following completion work or a prepurchase".

Page 3, line 24, delete "evaluation (as defined in IC 6-2.5-3-2(f));".

Page 3, line 24, strike "or".

Page 3, line 28, after ";" insert "**or**".

Page 3, between lines 28 and 29, begin a new line double block indented and insert:

> "**(C) accepting delivery (as defined in IC 6-2.5-3-2(f)) of the aircraft following completion work or a prepurchase evaluation (as defined in IC 6-2.5-3-2(f));**".

and when so amended that said bill do pass.

(Reference is to HB 1325 as introduced.)

ESPICH, Chair

Committee Vote: yeas 16, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1325, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 11, after "by" delete "this" and insert "**the**".

Page 3, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 2. IC 6-2.5-5-37, AS AMENDED BY P.L.193-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 37. **(a)** Transactions involving tangible personal property are exempt from the state gross retail tax, if the tangible personal property:

(1) is leased, owned, or operated by a professional racing team; and

(2) comprises any part of a professional motor racing vehicle,



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excluding tires and accessories.

**(b) Transactions involving tangible personal property are exempt from the state gross retail tax, if the tangible personal property:**

**(1) is leased, owned, or operated by a company that is engaged in offering a competitive racing experience during a competitive racing event; and**

**(2) comprises any part of a two-seater Indianapolis 500 style race car, excluding tires and accessories.**".

Page 4, line 14, after "by" delete "this" and insert "**the**".

Page 4, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 4. IC 6-2.5-5-45 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 45. Transactions involving tangible personal property (including excise tax meter machines and related accessories, such as re-packers, cutters, and supplies) are exempt from the state gross retail tax if the property is acquired:**

**(1) by a person that is required to affix excise tax stamps under IC 6-7; and**

**(2) for the exclusive purpose of complying with IC 6-7.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1325 as printed January 25, 2012.)

HERSHMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

C o p y