

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.

HOUSE ENROLLED ACT No. 1325

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

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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:

- (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

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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 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:



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- (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.**

SECTION 5. IC 6-2.5-5-46 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 46. (a) For purposes of this section, "aircraft" refers to an aircraft with a country of registration that is outside the United States and is:**

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(1) certified by the Federal Aviation Administration as having a minimum landing weight of at least five thousand (5,000) pounds; or

(2) equipped with a turboprop or turbojet power plant.

(b) Transactions involving tangible personal property (including materials, parts, equipment, and engines) are exempt from the state gross retail tax, if the property is:

(1) used;

(2) consumed; or

(3) installed;

in furtherance of, or in, the repair, maintenance, refurbishment, remodeling, or remanufacturing of an aircraft or an avionics systems of an aircraft.

(c) The exemption provided by this section applies to a transaction only if the retail merchant, at the time of the transaction, possesses a valid repair station certificate issued by the Federal Aviation Administration under 14 CFR 145 et seq. or other applicable law or regulation.

SECTION 6. [EFFECTIVE JULY 1, 2012] (a) The commission on state tax and financing policy established under IC 2-5-3 shall, during the 2012 legislative interim, study issues related to whether the exemption provided by IC 6-2.5-5-46, as added by this act, should be made to apply to all aircraft and avionic devices.

(b) Before November 1, 2012, the commission on state tax and financing policy shall report its findings and any recommendations concerning the study topic described in subsection (a) in a final report to the legislative council in an electronic format under IC 5-14-6.

(c) This SECTION expires January 1, 2013.

SECTION 7. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

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