

---

**DEPARTMENT OF STATE REVENUE****Information Bulletin #12**  
**Sales Tax**  
**December 2009**  
(Replaces Bulletin #12 dated September 2009)

**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 not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUBJECT:** Public Transportation

**EFFECTIVE DATE:** January 1, 2008

**REFERENCES:** [IC 6-2.5-3-7](#); [IC 6-2.5-5-8](#); [IC 6-2.5-5-27](#); [45 IAC 2.2-5-61](#); [45 IAC 2.2-5-62](#); [45 IAC 2.2-5-63](#)

#### I. Public Transportation Definition

"Public transportation" means the movement, transportation, or carrying of persons and/or property for consideration by a common carrier, contract carrier, household goods carrier, carriers of exempt commodities, and other specialized carriers performing public transportation service for compensation by highway, rail, air, or water, which carriers operate under authority issued by, or are specifically exempt by statute or regulation from economic regulation of, the appropriate federal or state regulatory authority.

Even if a person or company operates under the appropriate authority, they also must transport people or property for consideration. That is to say, a public transportation provider must be compensated for transporting people or goods. The goods transported must be goods owned by someone other than the public transportation provider. To qualify for the exemption, the tangible personal property purchased must be predominately used in providing public transportation. The tangible personal property is predominately used in public transportation if more than 50% of its use is attributable to transporting people or property for hire.

#### II. Acquisition by a Public Transportation Provider

Tangible personal property bought by a public transportation provider may be purchased exempt from sales or use tax if the property is to be predominately and directly used in providing public transportation. Property is directly used in providing public transportation if the property is reasonably necessary to provide public transportation.

Determining whether property is reasonably necessary to provide public transportation can be difficult. The Department has determined that the following items generally are reasonably necessary to provide public transportation. These items do not comprise a comprehensive list. Rather, the following items are provided to offer some basic examples of items that generally are reasonably necessary to provide public transportation:

1. Roadway machinery and equipment;
2. Caboose and locomotive supplies such as fuses, lanterns, batteries, and flags;
3. Tariff publications;
4. Vehicles used for public transportation;
5. Communication equipment;
6. Equipment and items purchased to meet federal requirements;
7. All replacement parts, repair parts, and materials consumed by exempt equipment;
8. Tools and equipment used to repair and maintain rolling stock and track;
9. Vehicles used primarily for transportation of track maintenance crews;
10. Items used for repairs and maintenance of such vehicles;
11. Items used for production of financial matters, insurance, schedules, routes, and rates;
12. Items used to provide customer stations, handle baggage, or sell tickets;
13. Items used to keep vehicles clean and safe for passengers;
14. Machine shop and truck tools;
15. Equipment related to the construction and operation of terminals;
16. Directories;

17. Gas storage facilities;
18. Caboose and locomotive compliments such as towels, masking tape, powders, cleaners, ice, water coolers, and bottled water;
19. Cleaning supplies;
20. Employee uniforms; and
21. Garage supplies.

Certain functional categories of items are not reasonably necessary to provide public transportation. For example, all items related to the marketing and selling of public transportation are taxable. Telephone utilities used for sales activities; office supplies and furniture for sales personnel; and promotional expenses, such as matches, caps, or jackets given away to the public also would be subject to tax. If a taxpayer acquires tangible personal property for predominant use in providing public transportation, the property is entitled to the exemption. Thus, a phone used 10% of the time for sales calls and 90% of the time to dispatch vehicles would meet the predominant use (greater than 50%) test, and the entire purchase price of the item would be exempt.

A person who acquires an aircraft to rent or lease the aircraft to another person for predominant use in public transportation by the other person is exempt from the sales or use tax.

### III. Exemption Certificates

#### A. Public Transportation

Any person or company engaged in providing public transportation may buy certain items exempt from sales or use tax (see Section II), but if the public transportation provider has a facility in Indiana, it must register with the Indiana Department of Revenue (the Department) to obtain a Registered Retail Merchant Certificate (RRMC) to buy exempt. The RRMC will have a number that must be used on all exemption certificates given to vendors by the public transportation provider. Exemption certificates may be used as a blanket exemption, kept on file by the vendor, or used for each individual transaction. A blanket exemption certificate tells the vendor that all purchases made by the public transportation provider are reasonably necessary to provide public transportation. If a public transportation provider uses property purchased with a blanket exemption in a taxable manner, the provider must pay use tax for the purchase. The tax must be remitted on the provider's sales and use tax return, the annual income tax return, or a consumer use tax return (Form ST-115).

#### B. Individuals

Individuals engaged in public transportation but operating under another person's IN United States Department of Transportation (USDOT) or IN ID number or similar permit must use Form ST-105 when making an exempt purchase.

#### C. Others

Another option is for the purchaser to provide the seller with the person's name, address, and motor carrier number or USDOT number and provide a signature to affirm, under penalties of perjury, that the information is correct and that the tangible personal property is being purchased for an exempt purpose.

### IV. Utilities

Before a person or company engaged in providing public transportation can purchase utilities, natural gas, electricity, local exchange telephone service, intrastate toll message telephone service, steam, or water exempt from tax, an exemption certificate issued by the Department on behalf of the transportation provider must be on file with the utility. A public transportation provider will only qualify for the special exemption certificate, Form ST-109, after having an ST-200 utility exemption application approved by the Department. The Department will issue an ST-109 to a utility on behalf of the provider only if the utility being bought is used exclusively for an exempt purpose. If the utility is being used less than 50% in providing public transportation, the public transportation provider must pay the tax and file a claim for refund for the exempt percentage.

---

John Eckart  
Commissioner

*Posted: 01/27/2010 by Legislative Services Agency*  
An [html](#) version of this document.