

DEPARTMENT OF STATE REVENUE

Commissioner's Directive #54
July 2018
(Replaces Bulletin #54 dated September 2015)
Effective Date: July 1, 2018

SUBJECT: Indiana Tax Exemptions Relating to Specific Events Held in Indiana and Organized by Certain Organizations and their Affiliates

REFERENCES: [IC 2-5-41](#); [IC 6-2.5](#); [IC 6-3](#); [IC 6-6-1.1](#); [IC 6-6-2.5](#); [IC 6-6-9](#); [IC 6-6-9.7](#); [IC 6-8-12](#); [IC 6-9](#); [IC 6-9-13](#)

DISCLAIMER: Commissioner's directives 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.

SUMMARY OF CHANGES

This directive provides guidance to: (1) the National Collegiate Athletic Association (NCAA) and retail merchants concerning tax exemptions granted to the NCAA and its affiliates during a Final Four Event that takes place in Indiana; (2) the National Football League (NFL), its affiliates, and retail merchants concerning tax exemptions granted to the NFL and its affiliates during a Super Bowl Event that takes place in Indiana; (3) the National Basketball Association (NBA) and its affiliates during an All-Star Game Event that takes place in Indiana; and (4) the National Conference of State Legislatures (NCSL) concerning the 2020 NCSL Legislative Summit (exemptions for which were established in Senate Enrolled Act (SEA) 36-2018). The guidance found in Commissioner's Directive #42 on these topics, pertaining to the NFL and their affiliates, was incorporated into this document. Commissioner's Directive #42 is deleted as a result.

I. INTRODUCTION

[IC 6-8-12-3](#) provides that all property owned by the National Collegiate Athletic Association (NCAA) and its Affiliates (as defined below) in connection with a Final Four Event (as defined below) in Indiana, their revenues, their expenditures, and their transactions in connection with a Final Four Event in Indiana, resulting from holding such Final Four Event in Indiana, or resulting from making preparatory advance visits to Indiana for such Final Four Event are exempt from taxation in Indiana for all purposes.

[IC 6-8-12-3](#) also provides that all property owned by the NFL and its Affiliates (as defined below) in connection with a Super Bowl Event in Indiana, their revenues, their expenditures, and their transactions in connection with a Super Bowl Event in Indiana, resulting from holding such Super Bowl Event in Indiana, or resulting from making preparatory advance visits to Indiana for such Super Bowl Event are exempt from taxation in Indiana for all purposes.

[IC 6-8-12-3](#) further provides that all property owned by the NBA and its Affiliates (as defined below) in connection with an All-Star Game Event in Indiana, their revenues, their expenditures, and their transactions in connection with an All-Star Game Event in Indiana, resulting from holding such an All-Star Game Event in Indiana, or resulting from making preparatory advance visits to Indiana for such an All-Star Game Event are exempt from taxation in Indiana for all purposes.

[IC 2-5-41-10](#) provides that a transaction is exempt from:

- the Indiana gross retail (sales) and use tax;
- the food and beverage taxes of Boone, Johnson, Hamilton, Hancock, Hendricks, Morgan (if Morgan County has adopted a food and beverage tax), and Shelby counties; and
- the food and beverage taxes of the cities or towns of Carmel, Fishers (if Fishers has adopted a food and beverage tax), Greenfield (if Greenfield has adopted a food and beverage tax), Lebanon, Noblesville, Westfield, and Zionsville;

if the transaction is directly related to the 2020 NCSL Legislative Summit, and the transaction is entered into by the host committee, the legislative council, the legislative services agency, NCSL, or a person that is a sponsor for or a supporter of a function that is part of the published program for that meeting.

II. DEFINITIONS

Within this document, a Final Four Event, a Super Bowl Event, or an All-Star Game Event are referred to collectively as the term **Event**. Within this document, the term **Event** refers solely to those three events, and any guidance relating to the term **Event** will only apply to the NCAA and their Affiliates regarding a Final Four Event, the NFL and their Affiliates regarding a Super Bowl Event, or the NBA and their Affiliates regarding an All-Star Game Event.

A. The following definitions pertain to the NCAA:

Affiliate - means:

- Collegiate Sports, LLC
- NIT, LLC
- College Football Officiating, LLC
- Indiana Host Committee, LLC
- Men's College Basketball Officiating, LLC
- WCBO, LLC a/k/a Women's College Basketball Officiating, LLC
- The Arbiter, LLC
- eOfficials, LLC
- Collegiate Properties, LLC
- RefPay, LLC

Master Account means an account established by a retail merchant for the NCAA or its Affiliates that permits authorized employees or agents of the NCAA or its Affiliates to purchase tangible personal property or services on behalf of the NCAA or its Affiliates and for which payment of any charges made to such account is the responsibility and legal obligation of the NCAA or its Affiliates.

NCAA means the National Collegiate Athletic Association, a not-for-profit association organized under Section 501(c)(3) of the Internal Revenue Code.

Final Four Event means an event known as the Men's Final Four or the Women's Final Four that is conducted in connection with the NCAA Division I Men's Basketball Championship or the NCAA Division I Women's Basketball Championship and all ancillary events associated therewith.

B. The following definitions pertain to the NFL:

Affiliate - means:

- National Football League Management Council, not-for-profit trade association.
- NFL Ventures, L.P.
- NFL Ventures, Inc.
- NFL Productions, L.L.C.
- NFL Enterprises, L.L.C.
- NFL Properties, L.L.C.
- NFL International L.L.C.
- NFL Productions, Inc.
- NFL Network Services, Inc.
- NFL Combine Properties, Inc.
- NFL Charities
- NFL Youth Football Fund

Master Account means an account established by a retail merchant for the NFL or its Affiliates that permits authorized employees or agents of the NFL or its Affiliates to purchase tangible personal property or services on behalf of the NFL or its Affiliates and for which payment of any charges made to such account is the responsibility and legal obligation of the NFL or its Affiliates.

National Football League means a trade association known as the National Football League organized under Section 501(c)(6) of the Internal Revenue Code and the 32 member clubs of such association.

Super Bowl Event means an event known as the Super Bowl that is conducted after Dec. 31, 2011, by the NFL.

C. The following definitions pertain to the NBA:

Affiliate - means:

- NBA G League
- NBA Store
- NBA TV
- Women's National Basketball Association (WNBA)

Master Account means an account established by a retail merchant for the NBA or its Affiliates that permits authorized employees or agents of the NBA or its Affiliates to purchase tangible personal property or services on behalf of the NBA or its Affiliates and for which payment of any charges made to such account is the responsibility and legal obligation of the NBA or its Affiliates.

National Basketball Association means an association known as the National Basketball Association and the 30 member clubs of such association.

All-Star Game Event means an event known as the NBA All-Star Game (including the All-Star Saturday Night, Rising Stars Challenge, Celebrity Game, and the D-League All-Star Game) that is conducted after July 1, 2017, by the NBA.

D. The following definitions pertain to the NCSL:

Host Committee means a special committee established to work with the NCSL for the purposes of helping plan and solicit funding for the 2020 NCSL Legislative Summit to be held in Indianapolis, Indiana. The host committee consists of fourteen (14) members appointed as follows:

- Four (4) members of the Indiana Senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the Indiana Senate.
- Four (4) members of the Indiana House of Representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the Indiana House of Representatives.
- Two (2) individuals who are not members of the general assembly to be appointed by the president pro tempore of the Indiana Senate.
- One (1) individual who is not a member of the general assembly to be appointed by the minority leader of the Indiana Senate.
- Two (2) individuals who are not members of the general assembly to be appointed by the speaker of the Indiana House of Representatives.
- One (1) individual who is not a member of the general assembly to be appointed by the minority leader of the Indiana House of Representatives.

Legislative Council means the Indiana Legislative Council established under [IC 2-5-1.1-1](#).

Legislative Services Agency (or LSA) means the Indiana Legislative Services Agency established under [IC 2-5-1.1-7](#).

NCSL means the National Conference of State Legislatures.

Sponsor or **Supporter** means an entity that financially contributed to a part of the published program of the 2020 NCSL Legislative Summit, for which the NCSL, LSA, or the host committee otherwise would have had to pay. The terms do not mean an attendee, regardless of whether the attendee paid to attend the 2020 NCSL Legislative Summit or not.

III. SALES AND USE TAX ON PURCHASES BY THE NCAA/NFL/NBA OR AN AFFILIATE

Purchases of tangible personal property or taxable services made directly by the NCAA, NFL, NBA, or any of their respective Affiliates in connection with an Event in Indiana, resulting from holding an Event in Indiana or resulting from making preparatory advance visits to Indiana for an Event, are exempt from sales and use tax ([IC 6-2.5](#)).

To qualify for the exemption, the purchase of tangible personal property or taxable service from a retail merchant must be made directly by the NCAA, NFL, NBA, or their respective Affiliates.

NOTE: If an employee of the NCAA, NFL, NBA, or a respective Affiliate purchases an item on behalf of the NCAA, NFL, NBA, or a respective Affiliate, even if the employee is to be reimbursed by the NCAA, NFL, NBA, or a respective Affiliate, the purchase is not exempt and the employee must pay sales tax at the time of purchase.

To purchase property or services from a retail merchant exempt from sales and use tax, innkeepers' tax if applicable, and food and beverage tax if applicable, the NCAA, NFL, NBA, or a respective Affiliate must open a master account with that retail merchant that includes a list of those employees of the NCAA, NFL, NBA, or a respective Affiliate authorized to make charges to such master account, provide such master account information to the department, and submit an exemption certificate (Form ST-105 or SSTGB Form F0003) to the retail merchant. To recover taxes paid on exempt purchases, including the purchase of gasoline or special fuel through a metered pump, the NCAA, NFL, NBA, or a respective Affiliate must file a properly supported claim for refund with the department.

Example #1: An employee of the NCAA pays for lodging costs with the employee's own funds. Tax should be collected at the time of payment because payment is not being made directly by the NCAA. However, if an authorized employee charges the lodging to the NCAA master account at the hotel, which is properly established by the NCAA or its Affiliate, then this is a direct expenditure by the NCAA and the transaction is exempt from sales tax.

Example #2: An employee of an NFL Affiliate hosts a dinner for several employees and charges the dinner on a corporate credit card in the name of the Affiliate. The purchase is subject to sales tax because the purchase was not charged to a master account. The Affiliate may file a properly supported claim for refund with the department.

IV. SALES AND USE TAX ON SALES BY THE NCAA/NFL/NBA OR AN AFFILIATE

Sales by the NCAA, NFL, NBA, and their respective Affiliates in connection with an Event in Indiana, resulting from holding an Event in Indiana or resulting from making preparatory advance visits to Indiana for an Event, are exempt from sales and use tax ([IC 6-2.5](#)).

In order to be able to make exempt sales, the NCAA, NFL, NBA, or a respective Affiliate will still be required to register with the department and file sales tax returns (Forms ST-103), regardless of whether it has gross receipts subject to tax. The sales tax returns must be filed monthly on or before the due date for filing sales tax returns, as may be extended, for any month in which it has exempt or nonexempt sales, and the NCAA, NFL, NBA, or respective Affiliate shall report such sales.

V. REFUND OF EXCISE TAXES ON PURCHASES BY THE NCAA/NFL/NBA OR AN AFFILIATE

Purchases and sales by the NCAA, NFL, NBA, and their respective Affiliates in connection with an Event in Indiana, resulting from holding an Event in Indiana, or resulting from making preparatory advance visits to Indiana for an Event, are exempt from state and county excise taxes, including, without limitation, the gasoline or motor fuel tax ([IC 6-6-1.1](#)), special fuel tax ([IC 6-6-2.5](#)), auto rental excise tax ([IC 6-6-9](#)), county auto rental excise tax ([IC 6-6-9.7](#)), county food and beverage tax ([IC 6-9](#)), innkeeper's tax ([IC 6-9](#)), and county admissions tax ([IC 6-9-13](#) and [IC 6-9-28](#)) to the extent that such purchases and sales are exempt from sales and use tax ([IC 6-2.5](#)).

If excise taxes have been paid on exempt purchases, including the purchase of gasoline or special fuel through a metered pump, the NCAA, NFL, NBA, or a respective Affiliate must file a properly supported claim for refund with the department.

VI. INCOME TAX ON INCOME OF THE NCAA/NFL/NBA OR AN AFFILIATE RELATING TO AN EVENT

Income of the NCAA, NFL, NBA, and their respective Affiliates derived from an Event in Indiana, from holding an Event in Indiana, or from making preparatory advance visits to Indiana for an Event are exempt from adjusted gross income tax ([IC 6-3](#)).

To claim the foregoing exemption from any income tax on the foregoing income received in a taxable year, the NCAA, NFL, NBA, or a respective Affiliate shall submit a report detailing its exempt income to the department on or before the due date for filing income tax returns for such taxable year, as may be extended. The NCAA, NFL, NBA, or a respective Affiliate also shall include the foregoing report to the department as an enclosure with its income tax return, but only if it is required to file an income tax return.

The NCAA, NBA, or a respective Affiliate is required to file income tax returns to the extent it has nonexempt income or is otherwise required to do so by Indiana law. The NCAA, NBA, or a respective Affiliate shall exclude any exempt income from any income, receipts, or expenses reported on such return and shall exclude any exempt receipts from the numerator and denominator of its apportionment factor on its income tax return.

VII. WITHHOLDING TAX ON SALARIES AND WAGES OF EMPLOYEES OF THE NCAA/NFL/NBA OR AN AFFILIATE RELATING TO AN EVENT

Except as provided below, the NCAA, NFL, NBA, and their respective Affiliates are exempt from withholding tax ([IC 6-3-2-2.7](#) and [IC 6-3-4-1](#)) on the wages and salaries of their employees paid in connection with services rendered at an Event in Indiana, with respect to holding an Event in Indiana, or with respect to making preparatory advance visits to Indiana for an Event.

Notwithstanding the foregoing, the NCAA, NBA, and their respective Affiliates are not exempt from withholding tax on the salaries and wages paid to their employees who are residents of Indiana regardless of whether the salaries and wages are paid to such Indiana residents in connection with services rendered at an Event in Indiana, with respect to holding an Event in Indiana, or with respect to making preparatory advance visits to Indiana for an Event.

Example #3: An office employee who works full time for the NCAA at its headquarters in Indianapolis is required to staff a visitor center booth during the week before the NCAA Final Four Event basketball games begin. The wages paid to the employee are not exempt from the Indiana adjusted gross income tax because the employee is a resident of Indiana and regularly works for the NCAA.

If the NFL, NBA or their respective Affiliates are subject to withholding tax on nonresident team member employees ([IC 6-3-2-2.7](#)), they shall exclude any wages and salaries of such employee from the total income of such employee and shall exclude the duty days performed in Indiana by such employee in connection with an Event from such employee's Indiana duty days and total duty days (i.e., numerator and denominator of the apportionment factor). See Income Tax Information Bulletin #88.

To claim the foregoing exemption from any withholding tax, the NFL, NBA or their respective Affiliates shall submit a report to the department on or before the due date for filing income tax returns for such taxable year, as may be extended, and such report shall provide (1) the total income of each employee; (2) the total Indiana income of each employee (as determined by apportioning each employee's income to Indiana based on duty days performed in Indiana compared to total duty days in a taxable year); and (3) the total exempt income of each employee (as determined by reference to duty days performed in Indiana in connection with an Event compared to total duty days in a taxable year).

The NFL, NBA or their respective Affiliates shall not be required to register with the department or file a withholding tax return in order to claim the foregoing exemption, but each of them will be required to register with the department and file withholding tax returns to the extent each of them pays non-exempt salaries and wages or is otherwise required to do so by Indiana law.

VIII. PURCHASES DIRECTLY RELATED TO THE 2020 NCSL LEGISLATIVE SUMMIT

Purchases of tangible personal property or taxable services made directly by the NCSL, the host committee, the legislative council, the legislative services agency, or a supporter or sponsor that is directly related to the 2020 NCSL Legislative Summit in Indiana are exempt from sales and use tax, the food and beverage taxes of Boone, Johnson, Hamilton, Hancock, Hendricks, Morgan (if Morgan County has adopted a food and beverage tax), and Shelby counties, and the food and beverage taxes of the cities or towns of Carmel, Fishers (if Fishers has adopted a food and beverage tax), Greenfield (if Greenfield has adopted a food and beverage tax), Lebanon, Noblesville, Westfield, and Zionsville. This exemption expires January 1, 2021.

To qualify for the exemption, the purchase of tangible personal property or taxable service from a retail merchant must be made directly by the NCSL, the host committee, the legislative council, the legislative services agency, or a supporter or sponsor.

NOTE: If an employee of the NCSL, the host committee, the legislative council, the legislative services agency, or a supporter or sponsor purchases an item on behalf of the NCSL, the host committee, the legislative council, the legislative services agency, or a supporter or sponsor, even if the employee is to be reimbursed by the NCSL, the host committee, the legislative council, the legislative services agency, or a supporter or sponsor, the purchase is

not exempt and the employee must pay sales tax at the time of purchase.

To purchase property or services from a retail merchant exempt from sales and use tax or the food and beverage taxes listed above, NCSL, the host committee, the legislative council, the legislative services agency, or a supporter or sponsor must open a master account with that retail merchant that includes a list of those employees of said entities authorized to make charges to such master account, provide such master account information to the department, and submit an exemption certificate (Form ST-105 or SSTGB Form F0003) to the retail merchant. To recover taxes paid on exempt purchases, including the purchase of gasoline or special fuel through a metered pump, the NCSL, the host committee, the legislative council, the legislative services agency, or a supporter or sponsor must file a properly supported claim for refund with the department.

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