
DEPARTMENT OF STATE REVENUE**Information Bulletin #41
Sales Tax
June 2019
(Replaces Information Bulletin #41, dated January 2014)
Effective Date: July 1, 2019**

SUBJECT: Sales Tax Application to Furnishing of Accommodations

REFERENCES: [IC 6-2.5-4-4](#); [IC 6-2.5-4-18](#); [IC 6-9-29](#); [45 IAC 2.2-4-8](#); [45 IAC 2.2-4-9](#)

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.

SUMMARY OF CHANGES

Aside from nonsubstantive, technical changes, this bulletin is changed to reflect the passage of HEA 1001 (2019), which created a framework for the collection of sales tax by a "marketplace facilitator" on behalf of sellers, including those that facilitate the rental of rooms, lodgings, or other accommodations. The bill also clarified the law with respect to the gross retail income upon which the tax is required to be collected by a marketplace facilitator and created an exemption for the rental of the primary residence of Indiana homeowners who rent that residence for fewer than 15 days that are not made on a marketplace.

I. INTRODUCTION

Indiana sales tax applies to the rental of rooms, lodgings, camping space, or other accommodations in Indiana furnished by any person engaged in the business of renting or furnishing such accommodations for periods of less than 30 consecutive days. With the exception of persons who rent their primary residences for fewer than 15 days in the current or preceding calendar year (see Section III below), persons furnishing such accommodations must register as retail merchants and must collect sales tax from their customers. This includes marketplace facilitators (such as online travel agents (OTAs) or peer to peer property rental applications) and persons renting their own residences (whether primary or secondary).

II. DEFINITION OF ACCOMMODATIONS

"Accommodation" means any space, facility, structure, or combination thereof including booths, display spaces and banquet facilities, together with all associated real or personal property, which is intended for occupancy by persons for a period of less than 30 consecutive days. The term includes, but is not limited to, the following:

- Rooms in hotels, motels, lodges, ranches, villas, apartments, houses, bed and breakfast establishments, and vacation homes or resorts;
- Beginning July 1, 2019, houses, apartments, condominiums, or other personal residences in which rooms, lodgings, or accommodations are rented or furnished for transient residential housing;
- Gymnasiums, coliseums, banquet halls, ballrooms, arenas, and other similar accommodations offered for rent;
- Cabins or cottages;
- Tents or trailers (when situated in place);
- Houseboats and other craft with overnight facilities;
- Space in camper parks and trailer parks wherein spaces are offered for rent for periods of less than 30 days; and
- The renting or furnishing of cubicles or spaces used for adult relaxation, massage, modeling, dancing, or other entertainment to another person.

The term "accommodation" does not include vendor spaces occupied for periods of less than 30 consecutive days by merchandise trailers, absent the incorporation of tangible property or an amenity designed to support occupancy by human beings. Examples of amenities designed to support occupancy by human beings include, but are not limited to, utility connections and structures such as roofs and walls. Accordingly, "primitive" campsites (those that provide no amenities) and parking spaces for cars and trucks are not included in the term

III. IMPOSITION OF TAX

The tax is imposed on the gross receipts received by the retail merchant or marketplace facilitator, and includes the amount that represents consideration for the rendition of those services which are essential to the furnishing of rooms or accommodations, as well as those services which are provided in the ordinary and regular course of business of furnishing rooms or accommodations. Such amounts are subject to tax even if they are separately itemized on the statement or invoice. This includes, but is not limited to, telephone access charges, food or drink services provided by a retail merchant to customers, fees charged for the service of facilitation or other services necessary to complete the transaction, and membership fees charged to customers, provided the charges are billed along with the other room charges.

Example #1: An OTA charges their customers \$100 for a hotel room in Indiana. Per their contract with the hotel, a certain percentage of that \$100 represents the service of offering the room on their website. Regardless as to whether the service fee is separately stated or not, the full \$100 is still subject to sales tax and any applicable county innkeeper's taxes (or "CIT" - for more information on CITs, please see Section VIII below), even if the percentage represents the service of facilitating or arranging the rental of that room.

A marketplace facilitator is required to collect and remit the sales tax and any county innkeeper's tax on behalf of their sellers. This cannot be contracted away. For further information on marketplace facilitators, please refer to Sales Tax Information Bulletin #89, available online at: www.in.gov/dor/6051.htm.

IV. EXEMPTIONS FROM THE TAX

An accommodation that is rented for 30 consecutive days or more is not subject to the sales tax. The customer is required to pay, and the accommodation provider is required to collect and remit, the tax for the first 29 days if the customer is billed on less than a monthly basis. However, if the guest ends up staying for 30 or more consecutive days, the guest is entitled to a refund of the sales tax.

Example #2: A business rents accommodations for its employees and signs a lease for four months, payable monthly. The first 29 days would not be subject to tax.

Example #3: A business rents accommodations for its employees and signs a lease for four months. The business pays the rental on a weekly basis. The business is required to pay sales tax on the first 29 days of the rental. However, upon the 30th consecutive day of the rental, the business is entitled to a refund of sales tax paid on the first 29 days. The business can either seek a refund from the department (via a Form GA-110L Claim for Refund) or from the hotel or accommodation provider. If the hotel or accommodation provider refunds the tax to the business, the hotel or accommodation is then eligible to seek a refund of the tax from the department, assuming the refund is sufficiently documented.

When a business entity rents rooms for employees, the entity—not the employee who stays in the room—is renting the rooms, for the purpose of determining whether the rental is for 30 consecutive days or more. The contract does not have to be for a specific room as long as the continuous stay portion of the contract remains in effect.

Example #4: An innkeeper moves two occupants of rooms rented on an extended stay to make a contiguous area available for a convention that wants all of their rooms together. Moving the people in the extended stay contract does not void the contract.

Beginning July 1, 2019, the owner of a house, condominium, or apartment that is the owner's primary personal residence may rent or furnish rooms, lodgings, or other accommodations in that residence exempt from sales tax (and any applicable county innkeeper's tax) if the following conditions are met:

- At least one owner of a house, condominium, or apartment maintains the house, condominium, or apartment as the owner's primary personal residence;
- The owner rents or furnishes rooms, lodgings, or other accommodations in the residence for fewer than 15 days in the current or preceding calendar year;
- None of the payments for the rooms, lodgings, or other accommodations at the residence are made through a marketplace facilitator; and
- The rental or furnishing of the rooms, lodgings, or other accommodations qualifies for the special rule for certain use under Section 280A(g) of the Internal Revenue Code, which provides an exemption from federal

income tax when a primary residence is rented for fewer than 15 days.

Because the primary residence is rented for fewer than 15 days, it is treated similarly to a "casual sale," and the person renting the property is not considered a retail merchant that is required to register with the department to collect sales tax. However, if any of the above conditions are not met, then the homeowner must register as a retail merchant and collect sales tax (and any applicable county innkeeper's tax) on the rental of their primary residence.

Example #5: Alice rents her primary personal residence for 10 days on her own website and then two days on a peer to peer property rental application, which is considered a marketplace facilitator and which collects the payment for the rental of the property. Although the primary residence is rented for fewer than 15 days, the payments made through the peer to peer property rental application means that the exemption does not apply after her rental on the marketplace. Alice must register as a retail merchant and collect sales tax and any applicable CIT on all of her subsequent rentals of the property this year that are not rented on a peer to peer property rental application.

Additionally, if the person rents or furnishes their primary residence for more than 14 days in the current calendar year **or in the preceding calendar year**, the exemption will not apply. Because the limitation applies in the current or preceding calendar year, the determination of whether the exemption would apply functions as follows:

- If the rental or furnishing of more than 14 days occurred in the current calendar year, but not the preceding year, then the tax collection begins on the 15th day of rental or furnishing and each day thereafter in the current calendar year that the owner rents or furnishes rooms, lodgings, or other accommodations in the house, condominium, or apartment for consideration.
- If the rental or furnishing of more than 14 days occurred in the preceding year, then the tax collection must begin on the **first** day of rental or furnishing and each day thereafter in the current calendar year that the owner rents or furnishes rooms, lodgings, or other accommodations in the house, condominium, or apartment for consideration.

The homeowner must then register as a retail merchant and collect sales tax (and any applicable county innkeeper's tax) on the rental of their primary residence.

Example #6: Brian rented his primary personal residence for four days on his own website in the prior calendar year (and the rental of the residence qualified for Section 280A(g) of the IRC), which were the only rentals made for his residence that year. At the beginning of the current calendar year, Brian does not collect sales tax or any applicable CIT on any of the rentals of the property through his 14th rental of the property. However, he ends up renting his primary personal residence for more than 14 days in the current year. Brian must register as a retail merchant and collect sales tax and any applicable CIT on his 15th rental and any further rentals of the property made in the current year. Furthermore, next year, Brian must begin collecting sales tax and any applicable CIT on his first rental and every subsequent rental of the property. However, if he rents his residence for less than 15 days next year, then the year after that, he does not collect sales tax or any applicable CIT on his first 14 rentals.

Homeowners may remain registered as a retail merchant and file "zero" sales tax returns in years when their rental or furnishing is exempt in order to avoid the costs of re-registering in years when they must collect and remit sales tax. Furthermore, a homeowner may be able to file an annual return if their collection amount is below the statutory threshold of \$1,000 in sales tax collected.

V. NONPROFIT AND GOVERNMENT RENTALS

The tax does not apply to the rental of meeting rooms to charitable or nonprofit organizations if the facility is to be used for furtherance of the purpose for which the organizations are granted the exemption. In order to qualify for the exemption, an organization must present a properly completed exemption certificate to the accommodations provider, and the room must be invoiced to and paid directly by the charitable or nonprofit organization. Payment made by a member of the charitable or nonprofit organization that will be reimbursed by the organization disqualifies the purchase from exemption. Unlike meeting rooms, the rental of ordinary hotel/motel transient (i.e., sleeping) rooms for periods of less than 30 consecutive days to members of charitable or nonprofit organizations is subject to sales tax, even if the charitable or nonprofit organization pays for the room(s). There is an exception from this general rule for charitable or nonprofit organizations that rent ordinary hotel/motel transient rooms for individuals as part of the organization's mission, such as housing individuals who are displaced by natural disasters. In these rare instances, where the room is being rented to further the explicit mission of the

organization and the rental is for the benefit of a non-member of the organization, the rental is not subject to tax. For more information related to the exemptions available to charitable or nonprofit organizations, please refer to the Hotel Tax Matrix below and Sales Tax Information Bulletin #10, available online at: www.in.gov/dor/6051.htm.

Example #7: A nonprofit organization holds an annual conference at a hotel. As part of the conference, the nonprofit organization rents several meetings rooms and also rents a block of transient rooms for its members attending the conference. The hotel invoices the nonprofit for all the rentals, and the nonprofit organization pays the charges directly from its corporate funds. Rental of the meeting rooms is exempt from tax, but rental of the transient rooms is subject to tax, even though payment was made directly by the exempt organization.

With regard to rentals made by the federal government, its agencies, and instrumentalities, the tax does not apply to the rental of meeting or transient rooms if the federal government, agency, or instrumentality submits a properly completed exemption certificate and the accommodation is invoiced to and paid directly by the government entity.

With regard to Indiana state and local government entities, the tax does not apply to the rental of meeting rooms if the government entity predominantly uses the facility to perform its governmental function, submits a properly completed exemption certificate, and the accommodation is invoiced to and paid directly by the government entity. Similarly to rentals by federal government employees, but unlike the exemption available for charitable or nonprofit organizations, the rental of ordinary hotel/motel transient rooms for periods of less than 30 consecutive days to Indiana state or local government entities is not subject to sales tax. In order to qualify for the exemption, the government organization must submit a properly completed exemption certificate and the room must be invoiced to and paid directly by the government entity. Payment made by a government employee that will be reimbursed by the government entity disqualifies the purchase from exemption. The exemption available to state and local government entities is available only to Indiana state and local government entities and does not apply to out-of-state government entities. For more information related to the exemptions available to Indiana state and local government entities, please refer to the Hotel Tax Matrix below and Sales Tax Information Bulletin #4.

Example #8: A county sheriff's office rents a transient hotel room for one of its employees attending a conference on behalf of the office. The employee submits an ST-105 exemption certificate, claiming the government exemption, but pays for the room with his own credit card. He explains that he will be reimbursed by the county when he submits his travel report. The rental of the room is subject to tax. Had the employee paid for the room with a credit card or check in the name of the county, the rental would have been exempt from tax.

NOTE: A person is not a retail merchant if the person is a promoter that rents a booth or display space in a facility that is operated by a political subdivision (including a capital improvement board established under [IC 36-10-8](#) or [IC 36-10-9](#)) or the state fair commission. However, this does not exempt the renting of accommodations by a political subdivision or the state fair commission to a promoter or an exhibitor.

VI. RELIANCE ON GENERAL SALES TAX EXEMPTION CERTIFICATES

Any organization or entity renting a transient or meeting room exempt from sales tax must provide the retail merchant with a properly completed and facially valid exemption certificate: either the Form ST-105 General Sales Tax Exemption Certificate, available online at: www.in.gov/dor/3504.htm, or a Streamlined Sales Tax Agreement certificate of exemption. This is true regardless of whether the entity renting a room is a federal, state, or local government entity.

If a retail merchant accepts a properly completed and facially valid exemption certificate, the retail merchant is relieved of any responsibility to collect and remit sales tax related to the transaction at issue. If a retail merchant receives an exemption certificate that is not facially valid or properly completed, or if the person paying for the transient or meeting room is not the person entitled to the exemption, the merchant must collect sales tax.

Example #8: The employee of a nonprofit organization rents a transient room and pays for the room with a credit card issued by the nonprofit organization. The nonprofit employee fills out a Form ST-105 and claims the exemption applicable to nonprofit organizations. The retail merchant is not relieved of its obligation to collect and remit sales tax. The Form ST-105 is not facially valid since a nonprofit organization may not rent a hotel sleeping room exempt for use by its own employee, even when directly invoiced for the transaction.

VII. SUBLEASING ACCOMMODATIONS

The rental of rooms, lodgings, camping space or other accommodations to a person for periods of less than 30 consecutive days for the purpose of subleasing or subletting such accommodations to others, may be done exempt from tax. However, in such situations, the sublessor must register as an Indiana retail merchant and must collect the tax from the person to whom the accommodation is ultimately leased.

VIII. COUNTY INNKEEPER'S TAXES (CITs)

In Indiana, counties that have been granted the necessary statutory authority may adopt an innkeeper's tax. The rate varies by county, but it is a percentage of the gross retail income received from the rental or furnishing, for period of fewer than 30 days, any rooms, lodgings, or accommodations located in the county that adopted the CIT.

CITs and the sales tax operate in a similar manner with regard to how they are imposed on transactions involving food items. For instance, if a transaction is exempt from sales tax, then the transaction is also exempt from any CITs. Additionally, some CITs are to be remitted to the county, and other CITs are required to be remitted to the department. However, when collected by a marketplace facilitator, the CIT must be remitted to the department.

Further information on CITs can be found in Departmental Notice #40, available online at www.in.gov/dor/3618.htm.

IX. HOTEL TAX MATRIX

The following matrix identifies various hotel transactions and provides guidance as to whether the transactions are subject to sales/use tax and innkeeper's tax.

Adam J. Krupp
Commissioner

Hotel Tax Matrix

HOTEL ROOM REVENUE	TAXABILITY				COMMENTS
	SALES/USE TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Transient room revenue	X		X		
Guaranteed no show revenue where the charge is the fair value of the room consistent with other rooms being rented	X		X		This determination assumes the guest has the right to occupy a room.
Guaranteed no show revenue where the charge is less than the fair value of the room consistent with other rooms being rented		X		X	This determination assumes the guest at no time has the right to occupy a room.
Cancellation revenue where the guest has the right to occupy the room	X		X		
Cancellation revenue where the guest does not have the right to occupy the room		X		X	
Early departure fees where the charge is the fair value of the room consistent with other rooms being rented	X		X		This determination assumes the guest has the right to occupy the room.
Early departure fees where the charge is less than the fair value of the room consistent with other rooms being rented		X		X	This determination assumes the guest at no time has the right to occupy the room.
Late departure fees	X		X		
Early check-out fee	X		X		
Room upgrade fee	X		X		
Group cancellation fees: Liquidated		X		X	

Indiana Register

damages charged because an event is cancelled. (Example: An event books 200 rooms. Subsequently, the event is cancelled. A penalty is charged. At no time does a guest occupy or have the right to occupy the rooms.)					
Group attrition fees: Liquidated damages charged because a group did not fulfill its total event commitment. (Example: An event books 200 rooms. Only 150 are rented and occupied. A penalty is charged for the 50 remaining rooms. At no time does a guest occupy or have the right to occupy the 50 remaining rooms.)		X		X	
Complimentary rooms provided at no charge to:					
Guests		X		X	
Travel agents, advertisers, etc.		X		X	
Block room sales		X		X	
Rooms offered as payment for services—e.g., entertainment contract (i.e., barter transaction)	X		X		The hotel must remit sales/use tax and innkeeper's tax on the fair and full value of the room consistent with other rooms being rented.
Minibar revenue	X			X	
Packages (Example: golf, honeymoon, ski, etc.):					When the guest folio includes all elements of the package as one lump-sum charge, the entire amount is subject to sales and innkeeper's tax. When the guest folio separately states the room charge from the other package charges, only the room charge is subject to sales and innkeeper's tax. The other separately stated package items may or may not be subject to sales tax individually.
Separately stated on guest folio—room charge only	X		X		
Entire package not separately stated on guest folio	X		X		
Rooms for resale sold to:					
Tour operators	X		X		
Meeting planners	X		X		
Others who resell rooms to their customers	X		X		
Pet charges (pet's occupancy of guest room)—per day fee	X		X		
Additional charge for rental of smoking room	X		X		
Childcare charges:					
Provided by hotel employees		X		X	
Provided by unrelated third party		X		X	
Rollaway bed charges	X			X	
Refrigerator rental charges	X			X	
Use of exercise facilities		X		X	
Safe charges:					
In-room safe charges	X			X	

Indiana Register

Front desk safe charges		X		X	
Complimentary meal provided with room: A complimentary meal is provided for each room occupant. The meal is included in the price of the guest room. The guest cannot opt out of the meal for a lower room rate:					
Hotel purchases food and prepared meals		X		X	
Hotel purchases prepared food and meals from leased restaurant and/or outside vendor	X			X	The hotel must remit sales/use tax on the acquisition cost of the prepared food and meals.
Complimentary beverage provided with room: Complimentary beverages are provided for each room occupant at a reception. The beverages are included in the price of the guest room. The guest cannot opt out of the reception for a lower room rate:					
Liquor, beer, wine:					
Liquor, beer, wine—Hotel purchases and serves	X			X	The hotel must remit sales/use tax on the acquisition cost of the drinks.
Nonalcoholic beverages—Hotel purchases and serves (includes soft drinks)	X			X	The hotel must remit sales/use tax on the acquisition cost of the soft drinks.
Hotel leases complimentary beverage service to third party (includes both alcoholic and nonalcoholic)	X			X	Hotel accrues tax if not billed by third party.
Bottled water provided in room (complimentary)		X		X	This determination is based on the bottled water meeting the definition of bottled water in the Streamlined Sales and Use Tax Agreement (e.g., it is not sweetened, sold with utensils, etc).
Bottled water provided in room (at retail)		X		X	This determination is based on the bottled water meeting the definition of bottled water in the Streamlined Sales and Use Tax Agreement (e.g., it is not sweetened, sold with utensils, etc).
Damage fees: A fee charged by the hotel because the guest damaged the hotel room or furnishings. The guest does not gain ownership of any damaged property:					
Fee approximates replacement value of item		X		X	
Fee does not approximate replacement value		X		X	
Pet clean-up fees (cleaning of room after stay)		X		X	Fee is not a per day fee and is not dependent on the guest's length of stay.
Smoking clean-up fees		X		X	Fee is not a per day fee and is not dependent on the guest's length of stay.
Loyalty revenue/reward points	X		X		Redemption of points earned from previous hotel stays. Hotels contribute into a fund and when loyalty members stay at their hotels, the hotels are reimbursed from the fund including the applicable taxes that relate to the stay at the hotel.
Stay of 29 days or less—with or without contract	X		X		

Stay of 30 days or more—with or without contract		X		X	Rooms, lodgings, and accommodations that are rented for 30 or more continuous days are exempt from tax. If the customer is billed on less than a monthly basis, tax must be paid. Once the stay has extended to 30 or more continuous days, the guest can seek a refund from either the hotel or the department. If the hotel refunds the tax to the guest, the hotel may file a claim for refund with the department. If there is a contract and it provides for at least monthly billing and the rooms are rented for 30 or more continuous days, the rooms rented under the contract are exempt from tax. The fact that a different employee of the contracting entity stays in a room during the rental period (such as with airlines) does not change the determination as to taxability.
--	--	---	--	---	--

FOOD AND BEVERAGE REVENUE	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Restaurant food sales	X			X	This transaction is also subject to Food & Beverage tax where applicable.
Restaurant beverage sales (liquor, wine, and beer)	X			X	This transaction is also subject to Food & Beverage tax where applicable.
Restaurant beverage sales (carbonated, soda, fruit, mixers)	X			X	This transaction is also subject to Food & Beverage tax where applicable.
Gratuities and service charges:					
Voluntary:					
Fully distributed to server		X		X	
Restaurant retains a portion		X		X	
Mandatory:					
Fully distributed to server, separately stated on invoice and does not represent wages		X		X	
Fully distributed to server, separately stated on invoice and represents wages	X			X	
Fully distributed to server, not separately stated on invoice and represents wages	X			X	
Not fully distributed to server, not separately stated on invoice and represents wages	X			X	
Room service food and beverage	X			X	This transaction is also subject to Food & Beverage tax where applicable.
Room service separately stated delivery charges	X			X	This transaction is also subject to Food & Beverage tax where applicable.
Cover or minimum charges		X		X	This determination is based on the charges being separately stated on an invoice given to the customer.
Corkage (customer provides own bottle)		X		X	This determination is based on the charges being separately stated on an invoice given to the customer.

Indiana Register

Separately stated charges for serving food and beverage		X		X	This determination is based on the charges being separately stated on an invoice given to the customer.
Separately stated charges for delivering food and beverage	X			X	Caveat: The tax does not apply to charges for delivering food or beverages furnished, prepared, or served for consumption at a location or on equipment provided by the retail merchant. However, this exclusion applies only if the charges for delivery are stated separately from the price of the food or beverages when the purchaser pays the charges.
Cake cutting charges--(guests provide own cakes)		X		X	This determination is based on the charges being separately stated on an invoice given to the customer.
Ice carving charges (hotel provides ice)	X			X	
Meat carving charges (hotel employee--charges billed to customer)		X		X	This determination is based on the charges being separately stated on an invoice given to the customer.
Employee meals:					
Provided free of charge		X		X	
Provided for a charge above cost	X			X	
Provided at cost	X			X	Tax is due on the amount charged to the employee.
Provided at a charge below cost	X			X	Tax is due on the amount charged to the employee.
Complimentary food: A manager entertains in the hotel restaurant a prospective guest who plans to bring a large group to stay at the hotel. The manager comps the client's dinner at the restaurant:					
Food provided for customer satisfaction (Example: customer complaint)		X		X	
Food and food ingredients (only) provided for promotional purposes		X		X	
Meeting room revenue (no meals served)	X			X	
Meeting room revenue (meals served--no lodging included)	X			X	
Rental of room, separately stated from meal	X			X	
Rental of room--lump sum billing	X			X	
Meeting room revenue (incidental food service) Please provide your jurisdiction's definition of incidental, if applicable.	X			X	
Banquet room/audio-visual/convention charges (separately stated) provided/performed by hotel employees:					
Rigging, electrical cabling, and light setup fees		X		X	This determination is based on no tangible personal property being transferred to the guest and the charges being separately stated on an invoice given to the guest.
Phone line setup fees/labor		X		X	This determination is based on no tangible personal property being

Indiana Register

					transferred to the guest and the charges being separately stated on an invoice given to the guest.
Theme equipment, decorations charges, and setup fees/labor (excludes tangible personal property)		X		X	This determination is based on no tangible personal property being transferred to the guest and the charges being separately stated on an invoice given to the guest.
Phone line/Internet cabling line setup		X		X	This determination is based on no tangible personal property being transferred to the guest and the charges being separately stated on an invoice given to the guest.
Labor		X		X	This determination is based on no tangible personal property being transferred to the guest and charges being separately stated on an invoice given to the guest.
Equipment rental	X			X	
Technician/support		X		X	This determination is based on no tangible personal property being transferred to the guest and the charges being separately stated on an invoice given to the guest.
Banquet room/audio-visual/convention charges (separately stated) provided/performed by unrelated third-party service provider:					Contract is between the hotel guest and the third-party service provider. Hotel may allow charges to appear on guest folio as a convenience to the guest, but hotel bears no liability to the third party for nonpayment by the guest. The hotel collects the tax from the customer and remits to the third party. The third party then remits the tax to the State.
Rigging, electrical cabling, and light setup fees (excludes tangible personal property)		X		X	This determination assumes the labor is not performed by the entity renting TPP to the guest. Any charges for labor associated with setting up TPP also rented by the service provider are included in gross retail income and subject to tax.
Phone line setup fees/labor (excludes tangible personal property)		X		X	This determination assumes the labor is not performed by the entity renting TPP to the guest. Any charges for labor associated with setting up TPP also rented by the service provider are included in gross retail income and subject to tax.
Theme equipment, decorations charges, and set up fees/labor (excludes tangible personal property)		X		X	This determination assumes the labor is not performed by the entity renting TPP to the guest. Any charges for labor associated with setting up tangible personal property also rented by the service provider are included in gross retail income and subject to tax.
Theme equipment, decorations charges (includes tangible personal property)	X			X	Taxable to guest.
Phone line/Internet cabling line setup		X		X	This determination assumes the labor is not performed by the entity renting TPP to the guest. Any charges for labor associated with setting up tangible personal property also rented by the service provider are included in gross retail income and subject to tax.

Commission to hotel from third-party service provider		X		X	
Floral:					
Facility furnished (with banquet)	X			X	
Facility furnished (available to public)	X			X	
Facility furnished (available only to guest or hotel has no other retail)	X			X	
Cancellation fees: (banquet rooms) Liquidated damages because an event was cancelled. Damages may cover lost revenue not merely from the room rental, but from food that was ordered and must be thrown away, party decorations ordered, etc. Guest never occupies or has right to occupy the room.		X		X	Any charges for food or tangible personal property are subject to sales tax.
Attrition fees: (banquet rooms) Liquidated damages because group did not fulfill their total event commitment. (Example: an event booked a banquet for 200 people, only 150 attended, and a penalty was charged for 50 non-attendees.)		X		X	

OTHER GUEST CHARGES	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Telephone charges:					
Local charges (mark-up on carrier charges)	X		X		Entire amount, including mark-up, is subject to tax.
Local charges (flat fee per call)	X		X		Entire amount is subject to tax.
Long distance intrastate (mark-up on carrier charges)	X		X		Entire amount, including mark-up, is subject to tax.
Long distance interstate (mark-up on carrier charges)	X		X		Only the mark-up is subject to tax.
High-speed Internet access:					
Fee charged to connect to hotel's network through in-room ethernet cable (in a sleeping room)		X		X	
Fee charged to connect to hotel's network through a wireless connection (in a sleeping room)		X		X	
Fee charged for provision of Internet access in a meeting room through in-room Ethernet cable/hub		X		X	
Fee charged for provision of Internet access in a meeting room through a wireless connection		X		X	
Guest laundry/dry cleaning:					
Hotel is a retailer and seller of services		X		X	
Outside vendor performs services, bills guests, and pays commission to hotel		X		X	
Outside vendor performs services, bills hotel, and hotel marks up charges to guests		X		X	

Indiana Register

Outside vendor performs services, bills guests, and there is no mark-up or commission		X		X	
Coin-operated laundry–hotel owned		X		X	
Coin-operated laundry–independently owned		X		X	
Pay-per-view television/In-room movies: The pay-per-view provider owns and services equipment in hotel. Services and selections are controlled by provider via the Internet. The provider, not the hotel, is the seller of the pay-per-view service per the terms of the provider's contract with the hotel:					
Provider is responsible for remitting the tax	X			X	Based on the caveat that the hotel is not the seller, the hotel has no obligation to collect and remit sales tax. The provider, as the seller, is obligated to collect and remit sales tax.
Hotel (or other retail merchant) is responsible for remitting the tax	X			X	
Video game rental: The pay-per-view provider owns and services equipment in the hotel. Service and selections are controlled by the provider via the Internet. The provider, not the hotel, is the seller of the pay-per-view service per the terms of the provider's contract with the hotel:					
Provider is responsible for remitting the tax	X			X	Based on the caveat that the hotel is not the seller, the hotel has no obligation to collect and remit sales tax. The provider, as the seller, is obligated to collect and remit sales tax.
Hotel (or other retail merchant) is responsible for remitting the tax	X			X	
Parking:					
Mandatory valet service fee assessed to room		X		X	
Mandatory valet service operated by outside parking company		X		X	
Guest option valet service		X		X	
Charges for self-parking owned by hotel (open to public)		X		X	
Charges for self-parking owned by hotel (not open to public)		X		X	
Pass-through parking charges		X		X	
Commission to hotel on third-party operated self-parking		X		X	
Transportation charges:					
Performed by hotel		X		X	
Arranged by hotel and performed by outside service provider		X		X	
Arranged by guest and posted on folio for guest convenience		X		X	

Mark-up on service performed by outside service provider (outside provider's portion is taxable)		X		X	
Mark-up on service performed by outside service provider (outside provider's portion is exempt)		X		X	
Commission to hotel from third-party provider		X		X	
Destination services:					
Cost of destination service package from third-party provider where underlying transaction is subject to sales tax (appears on folio for guest convenience only)	X			X	
Hotel regularly operates or conducts a taxable amusement activity	X			X	
Hotel regularly operates or conducts a nontaxable amusement activity		X		X	
Guest initiated amusement activity charged on hotel bill for guest convenience	X			X	This determination is based on the underlying amusement activity being subject to tax. If the underlying amusement activity is not subject to tax, then these charges are not subject to tax.
Mark-up on service performed by outside service provider (outside provider's portion is exempt)		X		X	
Mark-up on service performed by outsider service provider (outside provider's portion is taxable)	X			X	
Commission on amusement services paid to hotel by third-party provider (on premises)		X		X	
Commission on amusement services paid to hotel by third-party provider (off premises)		X		X	

GIFT SHOP CHARGES	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Retail video or DVD rental	X			X	
Retail food sales (meets definition of "food and food ingredients")		X		X	
Retail candy sales	X			X	
Retail beer/wine sales	X			X	
Retail clothing sales	X			X	
Retail non-food sales (e.g., toothpaste, baby wipes, pens, etc.)	X			X	
Newspapers		X		X	Newspapers are statutorily exempt from sales tax.
Periodicals	X			X	

MISCELLANEOUS FEES (Golf, Tennis, Swimming, Etc.)	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Club membership fees		X		X	
Lessons		X		X	
Greens fees		X		X	

Indiana Register

Cart rental fees	X			X	
Court usage:					
Commission paid to hotel by outside providers		X		X	
Resort fees: Per-diem charge for a number of additional amenities provided by a resort, such as beach chairs, bottled water in the hotel rooms, access to the hotel fitness center, newspaper delivery, shuttle service, etc.:					
Voluntary fees		X		X	
Mandatory fees	X		X		

HEALTH SPA & SALON	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Spa usage fees		X		X	This determination is based on the understanding that no tangible personal property is transferred to the guest as part of the service.
Massage revenue—performed in spa		X		X	This determination is based on the understanding that no tangible personal property is transferred to the guest as part of the service.
Massage revenue—performed in guest room		X		X	This determination is based on understanding that no tangible personal property is transferred to the guest as part of the service.
Massage revenue—performed offsite		X		X	This determination is based on the understanding that no tangible personal property is transferred to the guest as part of the service.
Weight room fees		X		X	This determination is based on the understanding that no tangible personal property is transferred to the guest as part of the service.
Tanning booth revenue		X		X	This determination is based on the understanding that no tangible personal property is transferred to the guest as part of the service.
Nutritional counseling		X		X	This determination is based on the understanding that no tangible personal property is transferred to the guest as part of the service.
Facials		X		X	This determination is based on the understanding that no tangible personal property is transferred to the guest as part of the service.
Barber/beauty services		X		X	This determination is based on the understanding that no tangible personal property is transferred to the guest as part of the service.
Tangible personal property transferred to guest as part of spa service	X			X	

BUSINESS CENTER REVENUE	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Fax charges (fax is sent by business center employees)		X		X	
Copy charges (copies are made by	X			X	

Indiana Register

business center employees)					
Copy charges (coin-operated self-service copy machine)	X			X	
Document printing charge	X			X	
Computer usage charges (with Internet access)	X			X	Subject to tax as the rental of tangible personal property.
Computer usage charges (without Internet access)	X			X	Subject to tax as the rental of tangible personal property.
Shipping/mailling charges		X		X	This determination is based on the charges not being in conjunction with the sale of tangible personal property.

MISCELLANEOUS SALES	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Equipment rental (Example: audio visual equipment)	X			X	
Commissions earned from equipment rentals provided by outside equipment vendor		X		X	
Telephone commissions received from pay phone		X		X	
Prepaid telephone cards	X			X	Also, \$.50 prepaid wireless fee if applicable.
Fax charges (sent from in room)		X		X	
Vending machine sales (hotel maintains machine)	X			X	Effective July 1, 2019, depends on whether the underlying food is taxable or not.
Vending commissions (vendor maintains machine)		X		X	
Commissions earned from room service provided by leased restaurant		X		X	
Lease of real property:					
Space in hotel lobby		X		X	This determination is contingent on the space not meeting the statutory definition of an accommodation and isn't rented for less than 30 days.
Space for restaurant		X		X	This determination is contingent on the space not meeting the statutory definition of an accommodation and isn't rented for periods of less than 30 days.
Space for gift shop		X		X	This determination is contingent on the space not meeting the statutory definition of an accommodation and is not rented for periods of less than 30 days.
Commission on automatic teller machines (ATMs)		X		X	
Meeting supplies	X			X	

MISCELLANEOUS PURCHASES	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Consulting services		X		N/A	
General services		X		N/A	
Janitorial services		X		N/A	
Professional services		X		N/A	

Indiana Register

Temporary staffing		X		N/A	
Landscaping services		X		N/A	Note: Lawn mowing is exempt. Chemical application by lawn care companies is taxable. Trees, flowers, and shrubs could be subject to sales tax if the vendor bills the customer on a time-and-material basis. If the vendor bills on a lump-sum basis, no additional sales tax is due.
Cleaning supplies	X			N/A	
Pool maintenance		X		N/A	This determination is contingent on the transaction including maintenance only and no transfer of tangible personal property.
Security service:					
Provided by a security company/firm		X		N/A	
Provided by off-duty police officers		X		N/A	
Temporary labor:					
Hired by the hotel and under direct supervision of hotel. Hotel sets working hours and provides needed supplies. Wages paid to employee.		X		N/A	
Hired through an employment agency but under direct hotel supervision. Hotel sets working hours and provides needed supplies. Paid through employment agency.		X		N/A	
Salvage sales		X		N/A	This determination is contingent on the sales qualifying as occasional or casual sales taking place on the property of the seller.
Uniforms	X			N/A	
Cleaning of uniforms		X		N/A	
Hotel purchases of laundry service for hotel linens		X		N/A	
Maintenance contracts on hotel equipment	X			N/A	
Storage facilities		X		N/A	
Freight charges:					
Separately stated by retailer	X			N/A	
Third-party freight		X		N/A	
Lease of tangible personal property for hotel use	X			N/A	
Employee drug tests		X		N/A	This determination is contingent on no transfer of tangible personal property.
Employee background checks		X		N/A	

HOTEL OPERATIONS PURCHASES	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
In-room amenities provided with the guest room (example: shampoo, soap, toilet paper, laundry bag, robes, pens, paper, etc.)		X		N/A	
In-room coffee provided at no charge to guests		X		N/A	

Indiana Register

In-room cookies provided at no charge to guests		X		N/A	
Newspapers provided to guests (no separate charge on hotel folio):					
Guest can opt out for a refund of the paper's price		X		N/A	
Guest cannot opt out for a refund of the paper's price		X		N/A	
Linens and towels	X			N/A	
Coffeemakers for in-room guests	X			N/A	
Flowers (for hotel common areas, display, hotel decorating)	X			N/A	
Promotional materials (tangible personal property)	X			N/A	
Promotional (nontangible personal property) (example: media, advertising, etc.)		X		N/A	
Operating supplies (example: paper, office supplies, trash bags, etc.)	X			N/A	

FOOD AND BEVERAGE PURCHASES	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
China, glassware, and utensils	X			N/A	
Linens	X			N/A	
Operating supplies	X			N/A	
Disposable napkins, plates, etc. (provided with purchased meal)		X		N/A	Ind. Code § 6-2.5-5-35
Disposable napkins, plates, etc. (provided with complimentary meal)	X			N/A	

CAPITAL ASSETS	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Capital assets—general	X			N/A	
Computer hardware	X			N/A	
Computer software (delivered on tangible media):					
Custom designed specifically for a single customer		X		N/A	
Prewritten "canned" software	X			N/A	The term "prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. For more information, refer to Sales Tax Information Bulletin #8, available online at http://www.in.gov/dor/reference/files/sib08.pdf .
Computer software (delivered via the Internet—electronic delivery):					
Custom designed specifically for a single customer		X		N/A	
Prewritten "canned" software	X			N/A	The term "prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the

					author or other creator to the specifications of a specific purchaser. For more information, refer to Sales Tax Information Bulletin #8, available online at http://www.in.gov/dor/reference/files/sib08.pdf .
Computer software (use of software located outside the user's state) The software is located on a server outside the state. The user accesses and utilizes the software via the Internet. The user never receives or downloads a copy of the program files to load on the in-state computer.		X		N/A	Please refer to Sales Tax Information Bulletin #8 (June 2018 or later) for more information.
Furniture and fixtures—for hotel	X			N/A	
Televisions, telephones, and other electronics	X			N/A	
Office equipment—for hotel	X			N/A	
Furniture and fixtures—for restaurant	X			N/A	
Kitchen machinery and equipment	X			N/A	Some items might qualify for the industrial production exemption from sales tax.
Office equipment—for restaurant	X			N/A	
Telephone switching equipment	X			N/A	
New construction of real property	X			N/A	Taxability in this situation is contingent on whether the contract is a time-and-materials or a non-time-and-materials contract.
Repair of real property (no tangible personal property transferred)		X		N/A	
Installation of tangible personal property (no tangible personal property transferred)		X		N/A	If separately stated on the invoice given to the hotel.
Repair of tangible personal property (no tangible personal property transferred)		X		N/A	
Fabrication of tangible personal property	X			N/A	
Sale of entire business:					
Real property—land, buildings, other real property		X		N/A	
Furniture, fixtures, and equipment—tangible personal property		X		N/A	This determination is contingent on the sale taking place on the hotel's property.
Bulk sales		X		N/A	This assumes that the bulk sales represent occasional or casual sales taking place on the hotel's property.

FRANCHISE/ MANAGEMENT REVENUE	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Management fees		X		X	
Franchise fees/royalties		X		X	
Marketing fees		X		X	
Reservation fees		X		X	This determination assumes any reservation fee is not later used to discount the room rental rate similar to a deposit that is applied to a purchase. If a reservation fee is applied to discount or reduce a room

					rental rate, it is subject to both sales/use tax and innkeeper's tax.
Reimbursement of expenses at cost		X		X	
Travel agent and airline commission reimbursement		X		X	
Co-op marketing fees		X		X	
Payroll and accounting reimbursements		X		X	
Legal and technical services reimbursements		X		X	

RENTALS BY NONPROFIT ORGANIZATIONS (Includes nonprofit organizations organized and operated exclusively for one or more of the following purposes: charitable, literary, civic, religious, educational, scientific, or fraternal.)	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
A nonprofit organization rents transient (i.e., sleeping) rooms for its employees attending a conference held by the nonprofit organization	X		X		The rental confers a private benefit on the members of the nonprofit organization.
A nonprofit organization rents hospitality rooms for its employees attending a conference held by the nonprofit organization	X			X	
An employee of a nonprofit organization rents a transient (i.e., sleeping) room while attending a conference held by the nonprofit organization. The employee pays for the room but is reimbursed for the charge.	X		X		The rental confers a private benefit on the member of the nonprofit organization and is not subject to exemption on that basis alone. However, even if the transaction was potentially exempt (which it is not), the fact that the charges are not directly invoiced to and paid by the nonprofit organization precludes the transaction from being exempt from sales tax.
A nonprofit organization rents transient (i.e., sleeping) rooms for individuals in need, to further the mission of the nonprofit organization		X		X	The nonprofit organization must present the hotel with an exemption certificate (Form ST-105 or the Streamlined Sales and Use Tax Governing Board Form F0003). The charges must be directly invoiced to and paid by the nonprofit.
A nonprofit organization rents transient (i.e., sleeping) rooms to auction as part of a fundraising event held by the nonprofit organization		X		X	The nonprofit organization must present the hotel with an exemption certificate (Form ST-105 or the Streamlined Sales and Use Tax Governing Board Form F0003). The charges must be directly invoiced to and paid by the nonprofit organization.
A nonprofit organization rents a meeting room for its employees attending a conference held by the nonprofit organization to conduct business to further the mission of the nonprofit organization		X		X	The nonprofit organization must present the hotel with an exemption certificate (Form ST-105 or the Streamlined Sales and Use Tax Governing Board Form F0003). The charges must be directly invoiced to and paid by the nonprofit organization.
A nonprofit organization purchases food and beverages, including alcohol, to be consumed by its members attending a conference held by the nonprofit organization	X			X	The purchase confers a private benefit on the members of the nonprofit organization.

Indiana Register

A nonprofit organization purchases food and beverages, excluding alcohol, for individuals in need to further the mission of the nonprofit organization		X		X	The nonprofit organization must present the hotel with an exemption certificate (Form ST-105 or the Streamlined Sales and Use Tax Governing Board Form F0003). The charges must be directly invoiced to and paid by the nonprofit organization.
A nonprofit organization headquartered in another state and not registered with the Indiana Department of Revenue rents transient (i.e., sleeping) rooms for its employees attending a conference held by the nonprofit organization	X		X		
Rentals of transient (i.e., sleeping) rooms by organizations organized and operated predominantly for social purposes	X		X		Purchases by organizations organized & operated predominantly for social purposes are not exempt. If more than 50% of an organization's expenditures are related to social activities, the organization is considered to be predominantly organized & operated for social purposes.
Purchases, excluding transient (i.e., sleeping) rooms, by organizations organized and operated predominantly for social purposes	X			X	Purchases by organizations organized & operated predominantly for social purposes are not exempt. If more than 50% of an organization's expenditures are related to social activities, the organization is considered to be predominantly organized & operated for social purposes.

RENTALS BY STATE AND LOCAL GOVERNMENT ENTITIES	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
An Indiana state or local government employee rents a transient (i.e., sleeping) room		X		X	The Indiana government employee must present the hotel with an exemption certificate (Form ST-105 or the Streamlined Sales and Use Tax Governing Board Form F0003). The charges must be directly invoiced to and paid by the Indiana state or local government entity.
An Indiana state or local government employee rents a transient (i.e., sleeping) room. The employee pays for the room but is reimbursed for the charge	X		X		The charges must be directly invoiced to and paid by the Indiana state or local government entity.
A non-Indiana state or local government employee rents a transient (i.e., sleeping) room	X		X		The state and local government exemption is available only to Indiana entities.
An Indiana state or local government employee purchases food and beverages		X		X	The Indiana government employee must present the hotel with an exemption certificate (Form ST-105 or the Streamlined Sales and Use Tax Governing Board Form F0003). The charges must be directly invoiced to and paid by the Indiana state or local government entity.

RENTALS BY FEDERAL GOVERNMENT ENTITIES	TAXABILITY				COMMENTS
	SALES TAX		INNKEEPER'S TAX		
	YES	NO	YES	NO	
Rentals by foreign diplomats		X		X	Foreign missions and diplomats that

					have received a hotel tax exemption from the Office of Foreign Missions, U.S. Department of State, are exempt from local hotel taxes. Foreign Missions Act, 22 U.S.C. 4301-4316. http://www.state.gov/ofm/tax/. The diplomat must still present the hotel with an exemption certificate (Form ST-105 or the Streamlined Sales and Use Tax Governing Board Form F0003).
A federal government employee rents a transient (i.e., sleeping) room		X		X	The federal government employee must present the hotel with an exemption certificate. The charges must be directly invoiced to and paid by the federal government entity.
A federal government employee rents a transient (i.e., sleeping) room. The employee pays for the room but is reimbursed for the charge	X		X		The charges must be directly invoiced to and paid by the federal government entity.
A federal government employee purchases food and beverages		X		X	The federal government employee must present the hotel with an exemption certificate. The charges must be directly invoiced to and paid by the federal government entity.

MISCELLANEOUS	YES	NO	COMMENTS
Are U.S. postmarks acceptable as timely filings?	X		
If the business is sold, is the seller responsible for obtaining tax clearance?	X		
Is a business license required for the management company?	X		
Are any state or local taxes or fees subject to state taxes?	X		All taxes imposed on the seller and passed through to the guest are subject to sales tax. Taxes imposed directly on the purchaser (i.e., guest) are not subject to sales tax.
Are there any utility exemptions available for hotels?		X	Not specifically, but some kitchen equipment may be eligible for the industrial production exemption from sales tax.
If telephone charges are taxable, is there a credit for taxes paid to the telephone company?		X	
If Internet charges are taxable, is there a credit for taxes paid to the Internet company?		N/A	Internet charges are not subject to tax.

Posted: 07/31/2019 by Legislative Services Agency
 An [html](#) version of this document.