

DEPARTMENT OF STATE REVENUE

Information Bulletin #42
Sales Tax
April 2023
Effective Date: April 2022
(Replaces Bulletin #42, dated April 2022)

SUBJECT: Rental and Leasing of Tangible Personal Property

REFERENCES: [IC 6-2.5-1-5](#); [IC 6-2.5-1-21](#); [IC 6-2.5-4-10](#); [45 IAC 2.2-4-27](#)

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

Only nonsubstantive, technical changes have made to this bulletin. It has been primarily changed to reflect updated formatting.

INTRODUCTION

The purpose of this bulletin is to describe the general taxability of rental and lease transactions, as well the particulars of how Indiana sales tax is determined when various charges are involved, the payment frequency of the lease or rental, and so on.

DEFINITIONS

The terms "**lease**" and "**rental**" are used interchangeably for purposes of Indiana sales tax, as they share the same definition. The terms mean any transfer of possession or control of tangible personal property for a fixed or indeterminate period for consideration. The terms may include future options to purchase or extend. The term "lease" or "rental" does not include the following transactions:

- A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.
- A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of \$100 or 1% of the total required payments.
- Providing tangible personal property along with an operator for a fixed or indeterminate period, if:
 - the operator is necessary for the equipment to perform as designed; and
 - the operator does more than maintain, inspect, or set up the tangible personal property.

The terms "lease" or "rental" includes agreements covering motor vehicles and trailers in which the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1).

The definition above applies for purposes of Indiana sales and use tax, regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the uniform commercial code ([IC 26-1](#)), or other provisions of federal, state, or local law.

The term "**gross retail income**" means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise.

LEASE OR RENTAL TRANSACTIONS

A person (other than a public utility) is a retail merchant making a retail transaction when the person rents or leases tangible personal property to another person other than for subrent or sublease. A lessor engaged in the business of renting or leasing tangible personal property in Indiana must register as a retail merchant with the department.

A person is also a retail merchant making a retail transaction when the person rents or leases motion picture film, audio tape, or video tape to another person. However, there is an exception when the person who pays to rent or

lease the film charges admission to those who view the film, or the person who pays to rent or lease the film or tape broadcasts the film or tape for home viewing or listening. The taxability of the rental of entertainment products is covered in Sales Tax Information Bulletin #30, available online at in.gov/dor/legal-resources/tax-library/information-bulletins/sales-tax-information-bulletins/.

The short-term rental of motor vehicles and trucks in Indiana is a taxable transaction subject to Indiana sales tax, auto rental excise tax, and if the rental occurs in Marion County, a supplemental auto rental excise tax. Further, the sharing of passenger motor vehicles and trucks through a peer to peer vehicle sharing program (as defined in [IC 24-4-9.2-4](#)) is a retail transaction. The taxability of short-term rental or sharing of motor vehicles is described in more detail in is covered in Sales Tax Information Bulletin #47, available at the link above. The long-term lease of motor vehicles and trucks in Indiana is covered in more detail Sales Tax Information Bulletin #28L, also available at the link above.

The short-term rental or lease of rooms, lodgings, camping spaces, or other accommodations is covered in Sales Tax Information Bulletin #41, available at the link above. Such rentals may also be subject to a county-level innkeeper's tax, which is discussed in General Tax Information Bulletin #204, available online at in.gov/dor/legal-resources/tax-library/information-bulletins/general-tax-information-bulletins/.

The renting or leasing of tangible personal property is exempt from sales tax if the equivalent sales transaction is exempt. To qualify for this exemption, the lessee must present a valid exemption certificate at the time the lease agreement is executed.

GROSS RETAIL INCOME IN A RENTAL OR LEASE TRANSACTION

A lease or rental is considered a retail unitary transaction and the gross retail income therefrom is subject to sales or use tax. The definition of gross retail income applies to transactions involving the rental or lease of tangible personal property as it does to the sale of tangible personal property. This means that delivery charges, charges associated with costs of transportation to the seller, and other taxable charges within the definition of gross retail income also apply rental and lease transactions. This also means that separately stated installation charges in a rental or lease transaction are not subject to sales tax.

Taxable charges pursuant to a lease or rental include: rental or lease charges; damage waiver charges; charges for included supplies such as fuel in a wet-lease; charges for refueling at the end of a dry-lease; delivery charges; and late fees. Nontaxable charges associated with a lease or rental include: charges for third-party insurance; installation charges; assembly charges; monitoring charges; charges for moving equipment during the lease period; cancellation of no-show fees (unless the lessee has already taken possession of the property or maintains the right of possession); charges for damages, repairs, or cleaning of returned property; and pick-up charges.

Example #1: A truck rental company charges their customers fees for items and services related to the rental of the trucks. The charges for anything tangible conferred to the customer would be part of the gross retail income, such as dollies and boxes. Charges for delivering the truck to the customer would be considered a taxable delivery fee. A cleaning fee would not be taxable. Fees for mileage overage and late drop off/early pickup fees should be taxable since they represent the cost of fuel or consideration for the rental that will have to be paid in order to cover the use of the equipment.

Example #2: An equipment rental company charges their customers fees for items and services related to the rental of various tools and machinery. Charges for insurance for the tools and machinery would not be taxable. Fees for assembling tools or equipment would not be taxable, but fees for delivering tools to the customer would be.

Example #3: An equipment rental company offers to refuel equipment onsite during the lease term of a dry-lease. The charges for the sale of the fuel and charges to deliver the fuel to the worksite are subject to sales tax to the extent the fuel is subject to sales tax, such as propane. However, the charges for the sale of the fuel and charges for the delivery of the fuel are not considered to be included in the lease transaction or subject to sales tax or other rental taxes on that basis.

For more information on delivery and installation charges and other elements of gross retail income, please refer to Sales Tax Information Bulletin #92, available online at in.gov/dor/legal-resources/tax-library/information-bulletins/sales-tax-information-bulletins/.

Discrete sales of tangible personal property during the lease period are subject to sales tax as separate retail transactions. Such sales would not be considered to be part of the lease or rental and would not be subject to

other taxes such as auto rental excise tax, heavy rental excise tax, or vehicle sharing excise tax. Note that discrete sales of gasoline are not subject to sales tax since gasoline is subject to the gasoline use tax at the wholesale level. The inclusion of gasoline charges within the lease or rental agreement are subject to sales tax and any other applicable rental tax as described above.

RENTAL OR LEASE PERIODS

For purposes of payment on rental or lease transactions, a complete transaction is comprised of the period for which the rental or lease payment is determined. For example, if the rental payment is determined on a weekly basis, the rental of property during a week period is considered a complete transaction. For a continuing lease, a complete transaction is comprised of the period for which the lease payment is made.

SUPPLIES FURNISHED WITH LEASED PROPERTY

Generally, the lessor is considered the consumer of supplies and other consumables furnished with rented or leased property. As a result, the lessor must pay sales tax at the time it purchases such supplies. An exception to this rule is a lessor who makes bulk purchases of fuel for its vehicles or equipment. If the lessor charges sales tax on the fuel provided with leased vehicles, the initial bulk purchase of the fuel qualifies for the "sale for resale" exemption. Therefore, the purchase of the fuel by the lessor is not subject to tax. As noted above, purchases of gasoline by the lessor are never subject to sales or use tax because gasoline is subject to the gasoline use tax at the wholesale level.

If you have any questions concerning this bulletin, please contact the Tax Policy Division at taxpolicy@dor.in.gov.

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Commissioner

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