

DEPARTMENT OF STATE REVENUE

Information Bulletin #14
Sales Tax
August 2023
Effective Date: Upon Publication
(Replaces Bulletin #14, dated December 2002)

SUBJECT: Taxability of Purchases by Advertising Agencies

REFERENCES: [IC 6-2.5-4](#)

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 technical, nonsubstantive changes, this bulletin has been revised to include a new introduction section and updated guidance on digital products.

INTRODUCTION

The purpose of this bulletin is to provide guidance concerning the Indiana sales tax consequences for advertising agencies as to their purchases of property (both for use in their business and on behalf of their clients), as well as the transactions with their clients where property is conferred.

ITEMS USED IN EVERYDAY PERFORMANCE OF THE BUSINESS

Any purchases of personal property to be used in the everyday performance of an advertising agency's business are subject to Indiana sales tax (e.g., stationery, office supplies, office equipment, furniture, etc.). This can include editing software but does not include remotely accessed software. Please reference Sales Tax Information Bulletin #8 and Sales Tax Information Bulletin #93 for more information on the taxability of remotely accessed software, available online at in.gov/dor/legal-resources/tax-library/information-bulletins/sales-tax-information-bulletins/.

PURCHASES BY ADVERTISING AGENCIES FOR THEIR CLIENTS

If an agency relationship exists between the advertising agent and his client, the principal, the agent may pay Indiana sales tax for the principal when the advertising agency makes purchases of personal property on the client's behalf in the process of performing his services (e.g., printing plates, photographs, advertising brochures). The agency may then seek reimbursement from the client at the time of billing.

Failure of the agency to pay Indiana sales tax on purchases outlined above shall not relieve the principal of liability for the tax due.

RETAIL SALES BY ADVERTISING AGENCIES

The transfer of tangible personal property for a consideration shall constitute a retail sale by the advertising agency and is subject to Indiana sales tax unless transferred to the principal for whom the agency purchased the tangible personal property as outlined in the above paragraph.

Photography, videography and related services performed by an advertising agency or a third party on behalf of an advertising agency are generally not retail transactions subject to Indiana sales tax, as long as the charge for any tangible personal property does not exceed 10% of the total service. Further, Indiana sales tax is imposed on products transferred electronically only if the products meet the definition of specified digital products or prewritten computer software. Specified digital products include only digital audio works (e.g., songs, spoken-word recordings, and ringtones) and digital audiovisual works (e.g., movies) and digital books. Please see Sales Tax Information Bulletin #93 for more information on digital products transferred electronically, and Sales Tax Information Bulletin #94 for more information on bundled transactions, both available at the link above.

Example: An advertising agency hires a third party to create a digital video advertisement for a client. The video stays in digital form throughout the entire transaction and is meant for online viewing. An electronic copy of the video is given to the client. Unless the video is 10% or less of the overall transaction, the transaction is subject to

Indiana Register

sales and use tax as the video fits within the definition of a specified digital product. If taxable, the agency can either pay sales tax if they are the principal, or provide an exemption certificate if purchased for resale.

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

Robert J. Grennes, Jr.
Commissioner

Document Type: Bulletin

Posted: 09/13/2023 by Legislative Services Agency
An [html](#) version of this document.