

DEPARTMENT OF STATE REVENUE

Information Bulletin #92
Sales Tax
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SUBJECT: Delivery Charges, Installation Charges, and other Elements of Gross Retail Income

REFERENCES: [IC 6-2.5-1-5](#)

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SUMMARY OF CHANGES

Aside from technical, nonsubstantive changes, this bulletin has been expanded to include additional guidance on the value of any tangible personal property received in a like kind exchange.

INTRODUCTION

"Gross retail income" is the total amount of consideration received by a retail merchant in a retail transaction upon which a retail merchant must charge Indiana sales tax. The definition of "gross retail income" provides which types of additional charges in a retail transaction are or are not subject to sales tax. This bulletin describes the taxability of these different charges.

CHARGES SUBJECT TO SALES TAX

Seller's Cost of the Property Sold

Gross retail income includes the seller's cost of the tangible personal property it sells to its customer. This means that the seller cannot charge sales tax only on the "mark-up" by backing out the amount that it paid for the property in order to calculate the sales tax due.

Expenses of the Seller

Gross retail income includes the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller. For instance, if a seller is imposed an Indiana tax (whether on the product they sell or on themselves), they may pass along the expense to their purchaser. However, they must include the tax when calculating the gross retail income. Fuel charges for delivering a product would also fall under this category as a cost of transportation to the seller.

Charges by the Seller for Any Services Necessary to Complete the Sale

Gross retail income includes charges by the seller for services that were necessary to complete the sale. This category does not include delivery charges or installation charges, which are addressed later in this bulletin. Refer also to the "Bona Fide" Service Charges section below.

Delivery Charges

"Delivery charges" consist of transportation, shipping, crating, handling, and packing, whether or not separately stated on the invoice, bill of sale, or similar document. Delivery charges also include postage charges that are not separately stated on the invoice, bill of sale, or similar document; however, the definition of delivery charges excludes postage charges that **are** separately stated on the invoice, bill of sale, or similar document. In other words, separately stated postage charges do not constitute gross retail income and are not subject to sales tax. "Postage charges" are defined to mean the purchase price of stamps or similar charges, as incurred by the seller on behalf of its customers, for mail or parcel delivery through the United States mail, without any additional amounts added to the actual price.

Note: "Postage charges" do not include any charges for mail or parcel delivery by any means other than through the United States mail. The term also does not include any amount representing a "markup" over and above the purchase price of the stamps incurred by the seller.

Example #1: A company has brochures delivered to its customer via a private, third-party delivery service. The company invoices its customer \$100 for the brochures and separately states an additional charge of \$10 for delivery. The entire invoice of \$110 is subject to sales tax.

Example #2: A company has brochures delivered to its customer via the United States Postal Service. The company invoices its customer \$100 for the brochures and separately states an additional charge of \$10 for delivery. Only \$100 of the invoice is subject to sales tax since postage charges through the United States mail are not subject to tax.

Delivery charges that are incurred on behalf of the seller of tangible personal property continue to fall within the definition of "gross retail income" and are subject to sales tax, regardless of the shipping terms used. However, delivery charges billed and furnished by a third party are exempt.

Example #3: A company purchases a piece of equipment from the manufacturer. The purchasing company hires a trucking company to pick up the piece of equipment at the manufacturer's facility and deliver it to purchaser's location. The shipping charges are not subject to sales tax because they are not included in a retail transaction.

An additional exclusion from the application of sales tax exists for tangible personal property that is sold pursuant to an available exemption. If the item being sold is not subject to sales tax, the delivery charges related to that item also are not subject to sales tax. If some of the items being delivered are exempt and some of the items are subject to sales tax, the delivery charge attributable to the taxable items is subject to tax.

Example #4: An office supply retailer purchases 500 ballpoint pens from a wholesaler for \$1,000. The wholesaler charges the retailer \$100 to deliver the pens. The retailer issues an exemption certificate to the wholesaler indicating that the pens are being purchased for resale. The entire \$1,100 charge is exempt from sales tax.

Example #5: A manufacturer purchases repair parts for its equipment for \$1000. Ninety percent of the repair parts are exempt under the manufacturing exemption. The wholesaler charges the retailer \$100 to deliver the repair parts and materials. Because ninety percent of the repair parts are exempt, ten percent of the \$100 delivery charges is subject to sales tax.

When separately stated, sales tax does not apply to charges for serving or delivering food and food ingredients furnished, prepared, or served for consumption at a location or on equipment provided by a retail merchant. However, charges for delivery of prepared food **beyond the seller's location and not served on the seller's equipment** are subject to sales tax.

Example #6: A pizza parlor imposes a \$3 charge to deliver pizzas to a customer's residence. The \$3 delivery charge is subject to sales tax.

Example #7: A merchant caters an event at a location leased by the caterer. As a separate charge on the customer's invoice, the caterer charges the customer \$100 for delivering and serving the food. The "delivery" in this context is by the caterer of food to the caterer's location. Delivering or serving food at the customer's location would not constitute "delivery" for purposes of gross retail income. The \$100 is therefore not subject to sales tax.

Example #8: A merchant caters an event at a location provided by the customer. The caterer charges the customer \$100 for delivering and serving the food as a separate charge on the customer's invoice. The food was delivered to a location beyond the caterer's locations. The \$100 is subject to sales tax.

While charges to incorporate tangible personal property into a permanent attachment to real property are not subject to sales tax, delivery charges related to construction materials are subject to tax. Contractors that enter into "time-and-materials" contracts are acting as retail merchants with regard to the tangible personal property transferred pursuant to such contracts. Any charges for delivery of tangible personal property included in a time-and-materials contract are subject to sales tax. Contractors that enter into "lump-sum" contracts must pay sales tax or accrue use tax on any delivery charges incurred by the contractor with regard to the tangible personal property transferred pursuant to such contracts.

Example #9: A contractor enters into a time-and-materials contract to replace a driveway. The contractor charges its customer \$100 for gravel and \$25 to have it delivered to the jobsite. The contractor must collect sales tax on the entire \$125 charge.

Example #10: A contractor enters into a lump-sum contract to replace a driveway. The contractor charges its

customer a flat fee of \$5,000 to replace the driveway. The contractor purchases gravel from the aggregate company for \$100, and the aggregate company charges the contractor \$25 to deliver the gravel to the jobsite. The contractor must pay sales tax, or accrue use tax if he has given the aggregate company an exemption certificate, on the entire \$125 charge.

Transportation companies that purchase tangible personal property for delivery to customers and charge their customers for the tangible personal property will be required to register as retail merchants and collect sales tax on the entire charge for such transactions.

Example #11: A residential customer orders three yards of white rock to be delivered from a hauling company. The hauling company proceeds to an aggregate company and purchases three yards of white rock that it delivers and dumps at the customer's residence. The hauling company does not mark up the price of the white rock from the price it paid at the aggregate company and adds that amount to its hauling charges. The hauling company is acting as a retail merchant and must collect sales tax on the entire amount it charges its customer for the white rock and delivery regardless of whether the charges are separately stated on the bill.

Price Reductions

Gross retail income includes consideration received by the seller from a third party if:

- the seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
- the seller has an obligation to pass the price reduction or discount through to the purchaser;
- the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
- the price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

Price reductions are covered in more detail in Sales Tax Information Bulletin #58, available online at in.gov/dor/legal-resources/tax-library/information-bulletins/sales-tax-information-bulletins/.

CHARGES NOT SUBJECT TO SALES TAX

The Value of Any Tangible Personal Property Received in a Like Kind Exchange

A "like kind exchange" means the reciprocal exchange of personal property between two persons, when the property exchanged is of the same kind or character, regardless of grade or quality and the persons exchanging the property both own the property prior to the exchange. However, a like kind exchange does not occur when the transaction involves more than two persons, or when one party to the transaction, through agreement or negotiation with the second party, acquires the property for the primary purpose of exchanging that property for like kind property held by the second party. Note that this rule does not deny either party the ability to hire an agent to carry out an agreement.

The value of the property given in exchange must be separately stated on the invoice, bill of sale, or similar document given to the purchaser from the selling price of tangible personal property or any other charge. If it is not, then the value of the property is subject to sales tax. After the value of the exchanged property is reduced, any additional consideration that is not of like kind must be included within the gross retail income.

Further, to constitute a like-kind exchange, the property exchanged must be owned by the two parties to the transaction at the time the exchange agreement is entered into. Transactions that do not specify the definite units or quantity of property being exchanged are taxable transactions.

For examples of how like kind exchanges apply in the context of the purchase or lease of a motor vehicle, please refer to Sales Tax Information Bulletins #28S and #28L, respectively.

Receipts Received in a Retail Transaction Which Constitute Interest, Finance Charges, or Insurance Premiums on Either a Promissory Note or an Installment Sales Contract

Charges in this category are not included in the gross retail income regardless of whether they are separately stated from the selling price of tangible personal property or any other charge on the invoice, bill of sale, or similar document given to the purchaser.

Discounts (Including Cash, Terms, or Coupons) That Are Not Reimbursed by a Third Party That Are Allowed by a Seller and Taken by a Purchaser on a Sale

Discounts are covered in more detail in Sales Tax Information Bulletin #58, available online at

Interest, Financing, and Carrying Charges from Credit Extended on the Sale of Personal Property

Charges in this category must be separately stated from the selling price of tangible personal property or any other charge on the invoice, bill of sale, or similar document given to the purchaser. If they are not, then the charge is subject to sales tax.

Taxes Legally Imposed Directly on the Consumer

Taxes imposed directly on the customer must be separately stated on the invoice, bill of sale, or similar document given to the purchaser from the selling price of tangible personal property or any other charge. If they are not separately stated, then the taxes are subject to sales tax.

Taxes in this category include the heavy equipment rental excise tax, and in the case of retail sales of special fuel (as defined in [IC 6-6-2.5-22](#)), the gross retail income is the total sales price of the special fuel minus the part of that price attributable to tax imposed under [IC 6-6-2.5](#), or Section 4041 or Section 4081 of the Internal Revenue Code.

However, in the case of retail sales of cigarettes, the gross retail income includes the cigarette excise tax imposed under [IC 6-7-1](#), and in the case of retail sales of consumable material, vapor products, and closed system cartridges subject to the closed system cartridge tax, the gross retail income includes the closed system cartridge tax imposed under [IC 6-7-4](#) and the electronic cigarette tax imposed under [IC 6-7-2-7.5](#).

Installation Charges

Separately stated charges for installation that occurs after delivery and transfer of the tangible personal property are not subject to sales tax. Installation charges that are not separately stated from the selling price of tangible personal property or any other charge on the invoice, bill of sale, or similar document given to the purchaser are subject to sales tax.

NOTE: Charges made for the preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred before its transfer and installation are subject to sales tax, even when separately stated on the invoice, bill of sale, or similar document. Please refer to the "Bona Fide" Service Charges section below for further information on such bona fide charges.

Telecommunications Nonrecurring Charges

"Telecommunications nonrecurring charges" means an amount billed for installation, connection, change, or initiation of a telecommunications service received by a customer. Such charges are not included in the gross retail income regardless of whether they are separately stated from the selling price of tangible personal property or any other charge on the invoice, bill of sale, or similar document given to the purchaser.

Postage Charges

As mentioned above, "postage charges" are defined to mean the purchase price of stamps or similar charges, as incurred by the seller on behalf of its customers, for mail or parcel delivery through the United States mail, without any additional amounts added to the actual price. The charges must be separately stated from the selling price of tangible personal property or any other charge on the invoice, bill of sale, or similar document given to the purchaser. If they are not, then the postage charge is subject to sales tax.

Charges for Serving or Delivering Food and Food Ingredients

As discussed above, charges relating to the serving or delivering of food or food ingredients that are furnished, prepared, or served for consumption at a location or on equipment provided by the retail merchant, are not subject to sales tax so long as the charges are stated separately from the price of the food and food ingredients and any other charges on the invoice, bill of sale, or similar document given to the purchaser.

"BONA FIDE" SERVICE CHARGES

Gross retail income is only taxable to the extent that the income represents the price of the property transferred, without the rendition of any services and (except as provided in the Charges Not Subject to Sales Tax section above) any "bona fide" charges which are made for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred before its transfer and which are separately stated on the transferor's records. A transfer is considered to have occurred after the delivery of the property to the purchaser.

Example #12: A carpenter sells cabinets to a customer, which the carpenter also installs. The carpenter breaks

out the labor charges for building the cabinets, the materials for making the cabinets, and the installation. The labor charges for building the cabinets are taxable as "bona fide" charges for fabricating the cabinets, but the installation charges are not taxable because they are specifically not taxable if listed separately and the installation occurs after delivery.

SPECIAL NOTE CONCERNING PUBLIC UTILITIES AND MARKETPLACE FACILITATORS

A public utility's or a power subsidiary's gross retail income includes all gross retail income received by the public utility or power subsidiary, including any minimum charge, flat charge, membership fee, or any other form of charge or billing. Likewise, the gross retail income from a transaction involving a marketplace facilitator is equal to the total amount of consideration paid by the purchaser to the facilitator, including the payment of any fee, commission, or other charge by the marketplace facilitator, except that the gross retail income does not include any taxes on the transaction that are imposed directly on the consumer other than taxes described in the Charges Not Subject to Sales Tax section above.

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