

IC 6-2.3-3

Chapter 3. Classification of Receipts as Gross Receipts

IC 6-2.3-3-1

Application of chapter

Sec. 1. Determinations concerning whether the receipts of a taxpayer are taxable gross receipts shall be made in conformity with this chapter.

As added by P.L.192-2002(ss), SEC.47.

IC 6-2.3-3-2

Effect; failure to separate nontaxable items on billings

Sec. 2. Notwithstanding any other provisions of this article, receipts that would otherwise not be taxable under this article are taxable gross receipts under this article to the extent that the amount of the nontaxable receipts are not separated from the taxable receipts on the records or returns of the taxpayer.

As added by P.L.192-2002(ss), SEC.47.

IC 6-2.3-3-3

Legal settlements; lost retail sales

Sec. 3. Gross receipts include the amount of any legal settlement or judgment received to compensate the taxpayer for lost retail sales of utility services.

As added by P.L.192-2002(ss), SEC.47.

IC 6-2.3-3-4

Collection of taxes

Sec. 4. (a) Gross receipts do not include collections by a taxpayer of a tax, fee, or surcharge imposed by a state, a political subdivision, or the United States if:

- (1) the tax, fee, or surcharge is imposed solely on the sale at retail of utility services;
- (2) the tax, fee, or surcharge is remitted to the appropriate taxing authority; and
- (3) the taxpayer collects the tax, fee, or surcharge separately as an addition to the price of the utility service sold.

(b) Gross receipts do not include collections by a taxpayer of a tax, fee, or surcharge that is:

- (1) approved by the Federal Communications Commission or the utility regulatory commission; and
- (2) stated separately as an addition to the price of telecommunication services sold at retail.

As added by P.L.192-2002(ss), SEC.47.

IC 6-2.3-3-5

Wholesale sales to another generator or reseller; sale to hotels, marinas, campgrounds, or mobile home parks

Sec. 5. (a) Gross receipts do not include a wholesale sale to another generator or reseller of utility services.

(b) A sale is a retail sale if the taxpayer sells utility services to a buyer that subsequently makes a sale described in IC 6-2.3-4-5.

(c) A sale of utility services is a wholesale sale if the utility services are natural gas and the buyer consumes the natural gas in the direct production of electricity to be sold by the buyer.

As added by P.L.192-2002(ss), SEC.47. Amended by P.L.131-2008, SEC.7.

IC 6-2.3-3-6

Sale to bottler of water

Sec. 6. A sale shall be treated as a retail sale if the taxpayer sells water or gas to another individual or entity that bottles and resells the water or gas.

As added by P.L.192-2002(ss), SEC.47.

IC 6-2.3-3-7

Sale to member electric cooperatives

Sec. 7. Gross receipts do not include amounts received by a corporation or a division of a corporation owned, operated, or controlled by its member electric cooperatives as payment from the electric cooperatives for electrical energy to be resold to their member-owner consumers.

As added by P.L.192-2002(ss), SEC.47.

IC 6-2.3-3-8

Sale by joint agency to municipal utility

Sec. 8. Gross receipts do not include amounts received by a joint agency established under IC 8-1-2.2 that constitutes a payment by a municipality that is a member of the joint agency for electrical energy that will be sold by the municipality to retail customers.

As added by P.L.192-2002(ss), SEC.47.

IC 6-2.3-3-9

Refundable deposits of cash

Sec. 9. Gross receipts do not include a deposit of cash made with a taxpayer to the extent that the deposit is refundable.

As added by P.L.192-2002(ss), SEC.47.

IC 6-2.3-3-10

Installation, repair, maintenance, equipment, or leasing services

Sec. 10. Gross receipts include receipts received for installation, maintenance, repair, equipment, or leasing services provided to a commercial or domestic consumer that are directly related to the delivery of utility services to the commercial or domestic consumer or the removal of equipment from a commercial or domestic consumer upon the termination of service.

As added by P.L.192-2002(ss), SEC.47.

IC 6-2.3-3-11

Delivery of utility services through third party; delivery from out

of state

Sec. 11. Subject to IC 6-2.3-2 and this chapter, gross receipts derived from activities or businesses or any other sources within Indiana include furnishing utility services to an end user in Indiana for consumption in Indiana, regardless of whether the:

- (1) utility services are delivered through the pipelines, transmission lines, or other property of another person;
- (2) taxpayer providing the utility service is or is not a resident or a domiciliary of Indiana; or
- (3) transaction is subject to a deduction under IC 6-2.3-5-5.

As added by P.L.162-2006, SEC.18.