

IC 6-2.3-5.5

Chapter 5.5. Utility Services Use Tax

IC 6-2.3-5.5-1

Imposition of tax

Sec. 1. An excise tax, known as the utility services use tax, is imposed on the retail consumption of utility services in Indiana that are billed after June 30, 2006.

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-2

Calculation of tax on gross consideration

Sec. 2. The utility services use tax is measured by the gross consideration received by the seller from the sale of the commodities or services listed in IC 6-2.3-1-14(1) through IC 6-2.3-1-14(6).

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-3

Tax rate

Sec. 3. The utility services use tax is imposed at the same rate as the utility receipts tax under IC 6-2.3-2-2.

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-4

Exemptions

Sec. 4. The retail consumption of utility services in Indiana is exempt from the utility services use tax if the:

- (1) transaction is subject to utility receipts tax (including a public utility (as defined in IC 8-1-2-1) and the utility receipts tax is paid on the gross receipts from the utility services;
- (2) gross receipts from the transaction are not taxable under IC 6-2.3-3 and the utility services are consumed for the purposes for which the gross receipts were excluded from taxation;
- (3) utility services were acquired in a transaction that is wholly or partially exempt from the utility receipts tax under IC 6-2.3-4 and the utility services are consumed for the purpose for which the utility services were exempted; or
- (4) utility services were acquired in a transaction that is wholly or partially subject to a deduction from the utility receipts tax under IC 6-2.3-5-6 and the utility services are consumed for the purpose for which the utility services deduction was given.

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-5

Credits

Sec. 5. A person is entitled to a credit against the utility services use tax imposed on the retail consumption of utility services equal to the amount, if any, of utility services use tax paid to another state. Payment of a general sales tax, purchase tax, or use tax to another

state does not qualify for a credit under this section.
As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-6

Liability of user

Sec. 6. The person who consumes utility services is personally liable for the utility services use tax.

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-7

Collection procedures

Sec. 7. The department shall establish procedures for the collection of the utility services use tax from users, including deposit and reporting requirements, deposit dates, and reporting dates. Failure to comply with the procedures is subject to the penalties in IC 6-8.1.

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-8

Utility services sellers; voluntary registration and collection of tax

Sec. 8. Any seller of utility services may elect to register with the department to collect utility services use tax on behalf of persons liable for the utility services use tax imposed under this chapter. A seller must comply with the collection and reporting procedures specified by the department only if the seller enters into an agreement with the department under this section.

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-9

Payment of tax

Sec. 9. (a) This subsection applies only to a person who receives utility services from a seller that enters into an agreement under section 8 of this chapter. The person liable for the utility services use tax shall pay the tax to the seller from whom the person purchased the utility services, and the seller shall collect the tax as an agent for the state, if the seller has departmental permission from the department to collect the tax.

(b) In all other cases, the person liable for the utility services use tax shall pay the utility services use tax directly to the department.

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-10

Payment to utility services seller; required issuance of receipt

Sec. 10. When a seller collects the utility services use tax from a person, the seller shall, upon request, issue a receipt to that person for the utility services use tax collected.

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-11

Receipt as evidence of payment

Sec. 11. If:

(1) the department assesses the utility services use tax against a person for the person's retail consumption of utility services; and

(2) the person has already paid the utility services use tax in relation to the utility services to a seller permitted to collect the utility services use tax under section 8 of this chapter;

the person may avoid paying the utility services use tax to the department if the person can produce a receipt or other written evidence showing that the person paid the utility services use tax to the seller.

As added by P.L.162-2006, SEC.19.

IC 6-2.3-5.5-12

Utility services seller; responsible office liability for payment of collected taxes to department

Sec. 12. (a) An individual who:

(1) is an employee, officer, or member of a corporation, partnership, or limited liability company that is a seller of utility services; and

(2) has a duty to remit utility services use tax to the department under an agreement entered into by the seller of utility services under section 8 of this chapter by virtue of the individual's responsibilities within the corporation, partnership, or limited liability company;

holds those taxes in trust for the state and is personally liable for the payment of those taxes, plus any penalties and interest attributable to those taxes, to the state.

(b) An individual described in subsection (a) who knowingly fails to collect or remit the specified taxes to the state commits a Class D felony.

As added by P.L.162-2006, SEC.19.