

## IC 6-2.3-6

### Chapter 6. Returns

#### IC 6-2.3-6-1

##### **Returns; due date; estimated payments; electronic funds transfers; penalties**

Sec. 1. (a) Except as provided in subsections (c) through (e), a taxpayer shall file utility receipts tax returns with, and pay the taxpayer's utility receipts tax liability to, the department by the due date of the estimated return. A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated utility receipts tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year which does not end on December 31, the due dates for filing estimated utility receipts tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year.

(b) With each return filed, with each payment by cashier's check, certified check, or money order delivered in person or by overnight courier, and with each electronic funds transfer made, a taxpayer shall pay to the department twenty-five percent (25%) of the estimated or the exact amount of utility receipts tax that is due.

(c) If a taxpayer's estimated annual utility receipts tax liability does not exceed two thousand five hundred dollars (\$2,500) the taxpayer is not required to file an estimated utility receipts tax return.

(d) If the department determines that a taxpayer's:

- (1) estimated quarterly utility receipts tax liability for the current year; or
- (2) average estimated quarterly utility receipts tax liability for the preceding year;

exceeds five thousand dollars (\$5,000), the taxpayer shall pay the estimated utility receipts taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(e) If a taxpayer's utility receipts tax payment is made by electronic funds transfer, the taxpayer is not required to file an estimated utility receipts tax return.

(f) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on taxpayers failing to make payments as required in subsection (b) or (d). However, a penalty may not be assessed as to any estimated payments of utility receipts tax that equal or exceed:

- (1) twenty percent (20%) of the final tax liability for the taxable year; or
- (2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall be assessed only on the difference between the actual amount paid by the taxpayer on the estimated return and

twenty-five percent (25%) of the taxpayers's final utility receipts tax liability for the taxable year.

*As added by P.L.192-2002(ss), SEC.47. Amended by P.L.269-2003, SEC.2; P.L.211-2007, SEC.8.*

#### **IC 6-2.3-6-2**

##### **Final return; due date; statements of no tax due**

Sec. 2. (a) Every taxpayer who receives more than one thousand dollars (\$1,000) in gross receipts during a particular taxable year shall file with the department an annual utility receipts tax return. At the time of filing an annual return, a taxpayer shall pay to the department an amount equal to the remainder of:

(1) the total utility receipts tax liability incurred by the taxpayer for that particular taxable year; minus

(2) the total amount of utility receipts taxes that was previously paid to the department for any quarter of that same taxable year.

(b) Except as provided in subsection (d), a taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's annual utility receipts tax return and pay the tax, if any, for that taxable year on or before April 15 of the immediately succeeding tax year.

(c) If a taxpayer uses a taxable year that does not end on December 31, the department shall prescribe the due dates for filing annual utility receipts tax returns and paying the tax.

(d) Any taxpayer who does not file an annual utility receipts tax return for a taxable year may be required to execute and file with the department a sworn statement that the taxpayer did not receive more than one thousand dollars (\$1,000) of taxable gross receipts during that taxable year.

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

#### **IC 6-2.3-6-3**

##### **Returns; limitation on required information; names on stock or securities that are a source of gross receipts**

Sec. 3. Any forms prescribed by the department under IC 6-8.1-3-4 that concern the collection of the utility receipts tax may not require a taxpayer to show the corporate name or title of any stock or the name of the obligor of any other security from which the taxpayer derives gross receipts.

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

#### **IC 6-2.3-6-4**

##### **Returns; required information; allocation of gross receipts among multiple locations**

Sec. 4. The department may require a taxpayer who receives gross receipts at two (2) or more business locations within the state to file with each quarterly and annual utility receipts tax return an information return that shows the allocation of gross receipts to each business location at which the gross receipts were received.

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

#### **IC 6-2.3-6-5**

##### **Affiliated groups; consolidated utility receipts tax returns; election**

Sec. 5. (a) Corporations are affiliated if at least eighty percent (80%) of the voting stock of one (1) corporation (exclusive of directors' qualifying shares) is owned by the other corporation. Every corporation affiliated with another corporation is affiliated with every corporation that is affiliated with such other corporation. All corporations so affiliated constitute an affiliated group.

(b) Corporate members of an affiliated group that are incorporated in Indiana or are authorized to do business in Indiana may file a consolidated utility receipts tax return.

(c) Each corporate member of an affiliated group that files a consolidated utility receipts tax return is jointly and severally liable for the utility receipts tax imposed on the affiliated group and on each member of that group.

(d) An affiliated group must elect at the time it files its first annual return whether or not it will file a consolidated utility receipts tax return or whether each corporate member of the group will file a separate utility receipts tax return. After the taxpayer's election is made, the group must file utility receipts tax returns in the same manner as the group's first annual return is filed, unless the department allows the group to change the manner in which it files utility receipts tax returns.

(e) The first consolidated utility receipts tax return filed by an affiliated group may be filed by any member of the group incorporated in Indiana or authorized to do business in Indiana. Subsequent consolidated returns shall be filed by the member who filed the first consolidated return for the group, unless the department allows another member to file the group's consolidated returns.

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

#### **IC 6-2.3-6-6**

##### **Returns; fiduciaries; receiver; trustee in dissolution; trustee in bankruptcy; assignee; liability of distributee for unpaid taxes; nonresident returns**

Sec. 6. (a) A receiver, a trustee in dissolution, a trustee in bankruptcy, or an assignee operating the property or business of a taxpayer shall file a utility receipts tax return for that taxpayer and pay any tax due on gross receipts reported in the return in the same manner that the taxpayer would be required to file a return and pay the tax under this chapter if the taxpayer had control of the business or property.

(b) Any fiduciary filing a return under subsection (a) shall report all previously unreported income derived from property or business controlled by the fiduciary.

(c) The utility receipts tax liability imposed upon any property held by a fiduciary described in subsection (a) is a lien upon the property from which the gross receipts were derived.

(d) If any utility receipts tax is due and unpaid after a fiduciary described in subsection (a) is discharged, each distributee is liable

for the utility receipts tax due in an amount equal to the quotient of:

- (1) the distributee's share of the business or property sold; divided by
- (2) the total distribution made by the fiduciary.

(e) Any resident of Indiana who is a fiduciary described in subsection (a), and who receives gross receipts for a distributee who is not an Indiana resident, must file a utility receipts tax return and pay the utility receipts tax due with that return before making a distribution to the distributee.

(f) Any taxpayer who is a resident of Indiana, and who receives gross receipts from a fiduciary described in subsection (a) who is not a resident of Indiana, shall file a return reporting the receipt of such gross receipts and shall pay any utility receipts tax due on such gross receipts, as though the gross receipts had been received directly by the taxpayer, unless the nonresident fiduciary has already paid the tax due on the gross receipts.

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

#### **IC 6-2.3-6-7**

##### **Allowable methods of accounting**

Sec. 7. A taxpayer shall use either the cash or accrual method of accounting for purposes of determining the taxpayer's utility receipts tax liability. If a taxpayer uses either the cash or accrual method of accounting for federal tax purposes, the taxpayer must also use that same method in determining the taxpayer's utility receipts tax liability. If a taxpayer does not use either the cash or accrual method of accounting for federal tax purposes, the taxpayer shall use the cash method in determining the taxpayer's utility receipts tax liability.

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