

## **IC 6-2.5-6**

### Chapter 6. Returns, Remittances, and Refunds

#### **IC 6-2.5-6-0.3**

##### **Effect of multiple amendments to section 9 of this chapter**

Sec. 0.3. If the general assembly amends section 9 of this chapter in more than one (1) act, the laws shall be read together and interpreted to implement the policies enacted in each act.

*As added by P.L.220-2011, SEC.136.*

#### **IC 6-2.5-6-1**

##### **Returns; reporting period; electronic funds transfer**

Sec. 1. (a) Except as otherwise provided in this section, each person liable for collecting the state gross retail or use tax shall file a return for each calendar month and pay the state gross retail and use taxes that the person collects during that month. A person shall file the person's return for a particular month with the department and make the person's tax payment for that month to the department not more than thirty (30) days after the end of that month, if that person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year did not exceed one thousand dollars (\$1,000). If a person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year exceeded one thousand dollars (\$1,000), that person shall file the person's return for a particular month and make the person's tax payment for that month to the department not more than twenty (20) days after the end of that month.

(b) If a person files a combined sales and withholding tax report and either this section or IC 6-3-4-8.1 requires sales or withholding tax reports to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(c) Instead of the twelve (12) monthly reporting periods required by subsection (a), the department may permit a person to divide a year into a different number of reporting periods. The return and payment for each reporting period is due not more than twenty (20) days after the end of the period.

(d) Instead of the reporting periods required under subsection (a), the department may permit a retail merchant to report and pay the merchant's state gross retail and use taxes for a period covering a calendar year, if the retail merchant's state gross retail and use tax liability in the previous calendar year does not exceed one thousand dollars (\$1,000). A retail merchant using a reporting period allowed under this subsection must file the merchant's return and pay the merchant's tax for a reporting period not later than the last day of the month immediately following the close of that reporting period.

(e) If a retail merchant reports the merchant's adjusted gross

income tax, or the tax the merchant pays in place of the adjusted gross income tax, over a fiscal year not corresponding to the calendar year, the merchant may, without prior departmental approval, report and pay the merchant's state gross retail and use taxes over the merchant's fiscal year that corresponds to the calendar year the merchant is permitted to use under subsection (d). However, the department may, at any time, require the retail merchant to stop using the fiscal reporting period.

(f) If a retail merchant files a combined sales and withholding tax report, the reporting period for the combined report is the shortest period required under:

- (1) this section;
- (2) IC 6-3-4-8; or
- (3) IC 6-3-4-8.1.

(g) If the department determines that a person's:

- (1) estimated monthly gross retail and use tax liability for the current year; or
- (2) average monthly gross retail and use tax liability for the preceding year;

exceeds five thousand dollars (\$5,000), the person shall pay the monthly gross retail and use 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.

(h) A person that registers as a retail merchant after December 31, 2009, shall report and remit state gross retail and use taxes through the department's online tax filing program. This subsection does not apply to a retail merchant that was a registered retail merchant before January 1, 2010, but adds an additional place of business in accordance with IC 6-2.5-8-1(e) after December 31, 2009.

(i) A person:

- (1) who has voluntarily registered as a seller under the Streamlined Sales and Use Tax Agreement;
- (2) who is not a Model 1, Model 2, or Model 3 seller (as defined in the Streamlined Sales and Use Tax Agreement); and
- (3) whose liability for collections of state gross retail and use taxes under this section for the preceding calendar year as determined by the department does not exceed one thousand dollars (\$1,000);

is not required to file a monthly gross retail and use tax return.

*As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1982, P.L.49, SEC.1; P.L.70-1986, SEC.1; P.L.92-1987, SEC.2; P.L.63-1988, SEC.3; P.L.28-1997, SEC.11; P.L.185-2001, SEC.2; P.L.177-2002, SEC.10; P.L.192-2002(ss), SEC.58; P.L.153-2006, SEC.5; P.L.211-2007, SEC.17; P.L.131-2008, SEC.10; P.L.182-2009(ss), SEC.180.*

## **IC 6-2.5-6-2**

### **Accounting for tax receipts; option to use accrual basis**

Sec. 2. A retail merchant may, without prior departmental approval, report and pay his state gross retail and use taxes on an accrual basis, if he uses the accrual basis to pay and report the adjusted gross income tax or the tax imposed on him in place of the adjusted gross income tax. The department may, at any time, require the retail merchant to stop using the accrual basis.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.192-2002(ss), SEC.59.*

### **IC 6-2.5-6-3**

#### **Consolidated filing**

Sec. 3. If a retail merchant, wholesaler, or manufacturer holds multiple certificates under IC 6-2.5-8 in order to make retail transactions at more than one (1) store or location, the retail merchant may apply for departmental permission to file a consolidated state gross retail and use tax return for all those stores and locations. If the department allows the consolidated filing, the retail merchant, wholesaler, or manufacturer must keep sufficient records to allow the department to determine the separate state gross retail and use tax liability for each store or location and to show any information that the department requires on the consolidated return.

*As added by Acts 1980, P.L.52, SEC.1.*

### **IC 6-2.5-6-4**

#### **Periodic deposits of collections during reporting period**

Sec. 4. If the department feels that a retail merchant is not properly collecting, reporting, or paying the state gross retail and use taxes, the department may require him to make periodic deposits of his collections during his reporting period and to file an informational return with those deposits.

*As added by Acts 1980, P.L.52, SEC.1.*

### **IC 6-2.5-6-5**

#### **Final return and payment**

Sec. 5. When a retail merchant stops doing a kind of business for which he must file returns under this chapter, he shall file a final state gross retail and use tax return with the department for that part of his business and pay the state gross retail and use taxes collected. The final return and payment are due no later than one (1) month after the date the business stops.

*As added by Acts 1980, P.L.52, SEC.1.*

### **IC 6-2.5-6-6**

#### **Coordination with gross income tax**

Sec. 6. When possible, the department shall coordinate the reporting and payment of the state gross retail and use taxes with the reporting and payment of the gross income tax.

*As added by Acts 1980, P.L.52, SEC.1.*

### **IC 6-2.5-6-7**

**Retail merchant; calculation of tax liability**

Sec. 7. Except as otherwise provided in IC 6-2.5-7 or in this chapter, a retail merchant shall pay to the department, for a particular reporting period, an amount equal to the product of:

- (1) seven percent (7%); multiplied by
- (2) the retail merchant's total gross retail income from taxable transactions made during the reporting period.

The amount determined under this section is the retail merchant's state gross retail and use tax liability regardless of the amount of tax the retail merchant actually collects.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.2-1982(ss), SEC.3; P.L.192-2002(ss), SEC.60; P.L.146-2008, SEC.311.*

**IC 6-2.5-6-8**

**Tax liability; income exclusion ratio**

Sec. 8. (a) For purposes of determining the amount of state gross retail and use taxes which a retail merchant must remit under section 7 of this chapter, the retail merchant may exclude from the retail merchant's gross retail income from retail transactions made during a particular reporting period, an amount equal to the product of:

- (1) the amount of that gross retail income; multiplied by
- (2) the retail merchant's "income exclusion ratio" for the tax year which contains the reporting period.

(b) A retail merchant's "income exclusion ratio" for a particular tax year equals a fraction, the numerator of which is the retail merchant's estimated total gross retail income for the tax year from unitary retail transactions which produce gross retail income of less than eight cents (\$0.08) each, and the denominator of which is the retail merchant's estimated total gross retail income for the tax year from all retail transactions.

(c) In order to minimize a retail merchant's recordkeeping requirements, the department shall prescribe a procedure for determining the retail merchant's income exclusion ratio for a tax year, based on a period of time, not to exceed fifteen (15) consecutive days, during the first quarter of the retail merchant's tax year. However, the period of time may be changed if the change is requested by the retail merchant because of the retail merchant's peculiar accounting procedures or marketing factors. In addition, if a retail merchant has multiple sales locations or diverse types of sales, the department shall permit the retail merchant to determine the ratio on the basis of a representative sampling of the locations and types of sales.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.2-1982(ss), SEC.4; P.L.192-2002(ss), SEC.61; P.L.146-2008, SEC.312.*

**IC 6-2.5-6-9 Version a**

**Uncollectible receivables; deduction**

*Note: This version of section amended by P.L.162-2006, SEC.23. See also following version of this section amended by P.L.184-2006, SEC.2.*

Sec. 9. (a) In determining the amount of state gross retail and use taxes which a retail merchant must remit under section 7 of this chapter, the retail merchant shall, subject to subsections (c) and (d), deduct from the retail merchant's gross retail income from retail transactions made during a particular reporting period, an amount equal to the retail merchant's receivables which:

- (1) resulted from retail transactions in which the retail merchant did not collect the state gross retail or use tax from the purchaser;
- (2) resulted from retail transactions on which the retail merchant has previously paid the state gross retail or use tax liability to the department; and
- (3) were written off as an uncollectible debt for federal tax purposes under Section 166 of the Internal Revenue Code during the particular reporting period.

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection (d)(6), include the amount collected as part of the retail merchant's gross retail income from retail transactions for the particular reporting period in which the retail merchant makes the collection.

(c) This subsection applies only to retail transactions occurring after December 31, 2006. As used in this subsection, "affiliated group" means any combination of the following:

- (1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).
- (2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department.

The right to a deduction under this section is not assignable to an individual or entity that is not part of the same affiliated group as the assignor.

(d) The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):

- (1) The deduction does not include interest.
- (2) The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:
  - (A) financing charges or interest;
  - (B) sales or use taxes charged on the purchase price;
  - (C) uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid;
  - (D) expenses incurred in attempting to collect any debt; and
  - (E) repossessed property.
- (3) The deduction shall be claimed on the return for the period

during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.

(4) If the amount of uncollectible receivables claimed as a deduction by a retail merchant for a particular reporting period exceeds the amount of the retail merchant's taxable sales for that reporting period, the retail merchant may file a refund claim under IC 6-8.1-9. However, the deadline for the refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.

(5) If a retail merchant's filing responsibilities have been assumed by a certified service provider (as defined in IC 6-2.5-11-2), the certified service provider may claim, on behalf of the retail merchant, any deduction or refund for uncollectible receivables provided by this section. The certified service provider must credit or refund the full amount of any deduction or refund received to the retail merchant.

(6) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable price of the property and the state gross retail tax or use tax thereon, and secondly to interest, service charges, and any other charges.

(7) A retail merchant claiming a deduction for an uncollectible receivable may allocate that receivable among the states that are members of the streamlined sales and use tax agreement if the books and records of the retail merchant support that allocation.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.257-2003, SEC.30; P.L.81-2004, SEC.7; P.L.162-2006, SEC.23.*

**IC 6-2.5-6-9 Version b**  
**Uncollectible receivables; deduction**

*Note: This version of section amended by P.L.184-2006, SEC.2. See also preceding version of this section amended by P.L.162-2006, SEC.23.*

Sec. 9. (a) In determining the amount of state gross retail and use taxes which a retail merchant must remit under section 7 of this chapter, the retail merchant shall, subject to subsections (c) and (d), deduct from the retail merchant's gross retail income from retail transactions made during a particular reporting period, an amount equal to the retail merchant's receivables which:

(1) resulted from retail transactions in which the retail merchant did not collect the state gross retail or use tax from the

purchaser;

(2) resulted from retail transactions on which the retail merchant has previously paid the state gross retail or use tax liability to the department; and

(3) were written off as an uncollectible debt for federal tax purposes under Section 166 of the Internal Revenue Code during the particular reporting period.

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection (d)(6), include the amount collected as part of the retail merchant's gross retail income from retail transactions for the particular reporting period in which the retail merchant makes the collection.

(c) This subsection applies only to retail transactions occurring after June 30, 2007. As used in this subsection, "affiliated group" means any combination of the following:

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%)) or a relationship described in Section 267(b)(11) of the Internal Revenue Code.

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department.

The right to a deduction under this section is not assignable to an individual or entity that is not part of the same affiliated group as the assignor.

(d) The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):

(1) The deduction does not include interest.

(2) The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:

(A) financing charges or interest;

(B) sales or use taxes charged on the purchase price;

(C) uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid;

(D) expenses incurred in attempting to collect any debt; and

(E) repossessed property.

(3) The deduction shall be claimed on the return for the period during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the claimant's books and records and would be eligible for a bad

debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.

(4) If the amount of uncollectible receivables claimed as a deduction by a retail merchant for a particular reporting period exceeds the amount of the retail merchant's taxable sales for that reporting period, the retail merchant may file a refund claim under IC 6-8.1-9. However, the deadline for the refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.

(5) If a retail merchant's filing responsibilities have been assumed by a certified service provider (as defined in IC 6-2.5-11-2), the certified service provider may claim, on behalf of the retail merchant, any deduction or refund for uncollectible receivables provided by this section. The certified service provider must credit or refund the full amount of any deduction or refund received to the retail merchant.

(6) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable price of the property and the state gross retail tax or use tax thereon, and secondly to interest, service charges, and any other charges.

(7) A retail merchant claiming a deduction for an uncollectible receivable may allocate that receivable among the states that are members of the streamlined sales and use tax agreement if the books and records of the retail merchant support that allocation.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.257-2003, SEC.30; P.L.81-2004, SEC.7; P.L.184-2006, SEC.2.*

#### **IC 6-2.5-6-10**

##### **Tax liability; merchant's collection allowance**

Sec. 10. (a) In order to compensate retail merchants for collecting and timely remitting the state gross retail tax and the state use tax, every retail merchant, except a retail merchant referred to in subsection (c), is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) The allowance equals a percentage of the retail merchant's state gross retail and use tax liability accrued during a calendar year, specified as follows:

(1) Seventy-three hundredths percent (0.73%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars (\$60,000).

(2) Fifty-three hundredths percent (0.53%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately

preceding calendar year:

(A) was greater than sixty thousand dollars (\$60,000); and

(B) did not exceed six hundred thousand dollars (\$600,000).

(3) Twenty-six hundredths percent (0.26%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars (\$600,000).

(c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.71-1993, SEC.10; P.L.28-1997, SEC.12; P.L.192-2002(ss), SEC.62; P.L.211-2007, SEC.18; P.L.146-2008, SEC.313.*

### **IC 6-2.5-6-11**

#### **Heating assistance program; deduction**

Sec. 11. A retail merchant who extends assistance to a heating assistance program administered under IC 4-4-33 may deduct from the retail merchant's state gross retail and use tax payment an amount equal to all or part of the aggregate assistance extended by the retail merchant to a heating assistance program administered under IC 4-4-33 during the reporting period for which the state gross retail and use tax payment is made.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.43-1983, SEC.2; P.L.41-1987, SEC.5; P.L.2-1992, SEC.67; P.L.181-2006, SEC.43.*

### **IC 6-2.5-6-12**

#### **Security for payment of tax collected**

Sec. 12. (a) Whenever the department feels it necessary to insure the payment of the state gross retail or use taxes, the department may require a retail merchant to post security for that payment in any amount not to exceed twice the department's estimate of the retail merchant's quarterly state gross retail and use tax liability.

(b) If necessary to recover any tax, interest, or penalty which the retail merchant owes under this article, the department may sell the security. If the security is in the form of a bearer bond which is issued by a governmental unit and which has a prevailing market price, the department may sell the security at a private sale for not less than that market price. If the security is in any other form, the department shall sell it at a public auction.

(c) Before the department may sell a retail merchant's security, the department shall give the retail merchant notice of the time, place, and date of the sale. The department shall send the notice by certified mail to the retail merchant's most recent address according to the department's records.

(d) If the proceeds of the security sale exceed the tax, interest, and penalties owing, the department shall refund the remainder to the retail merchant.

*As added by Acts 1980, P.L.52, SEC.1.*

### **IC 6-2.5-6-13**

#### **Refund; grounds**

- Sec. 13. A person is entitled to a refund from the department if:
- (1) a retail merchant erroneously or illegally collects state gross retail or use taxes under this article from the person;
  - (2) the retail merchant remits the taxes to the department;
  - (3) the retail merchant does not refund the taxes to the person; and
  - (4) the person properly applies for the refund under the refund provisions contained in IC 6-8.1-9.

*As added by Acts 1980, P.L.52, SEC.1. Amended by P.L.19-1986, SEC.11; P.L.269-2003, SEC.3; P.L.1-2003, SEC.32; P.L.97-2004, SEC.26.*

### **IC 6-2.5-6-14**

#### **Repealed**

*(Repealed by P.L.97-2004, SEC.133.)*

### **IC 6-2.5-6-14.1**

#### **Retail merchant's refund of gross retail or use taxes**

Sec. 14.1. Notwithstanding the refund provisions of this article as incorporated from the gross income tax law (IC 6-2.1, repealed), a retail merchant is not entitled to a refund of state gross retail or use taxes unless the retail merchant refunds those taxes to the person from whom they were collected.

*As added by P.L.97-2004, SEC.27.*

### **IC 6-2.5-6-14.2**

#### **List of retail merchants selling tobacco products**

Sec. 14.2. (a) The department shall annually compile a list of retail merchants that sell tobacco products. The list must include the following information:

- (1) On a county by county basis:
  - (A) the name of each retail merchant that sells tobacco products in the county; and
  - (B) the business address of each location in the county at which a retail merchant sells tobacco products.
- (2) The name and business address of each retail merchant that has begun to sell tobacco products since the previous report was compiled.
- (3) The name and business address of each retail merchant that has ceased to sell tobacco products since the previous report was compiled.

(b) The department shall deliver each list prepared under this section to:

- (1) the division of mental health and addiction; and
- (2) the alcohol and tobacco commission.

(c) A retail merchant that sells tobacco products shall provide the department with the information required for the preparation of the list under this section.

(d) The department shall prescribe a form to be used in collecting information under this section from retail merchants that sell tobacco products. A form prescribed under this subsection may be a modified version of an existing form.

*As added by P.L.97-2004, SEC.28.*

#### **IC 6-2.5-6-15**

##### **Repealed**

*(Repealed by P.L.81-2004, SEC.59.)*

#### **IC 6-2.5-6-16**

##### **Refund for research and development equipment**

Sec. 16. (a) As used in this section, "research and development equipment" has the meaning set forth in IC 6-2.5-5-40.

(b) A person is entitled to a refund equal to fifty percent (50%) of the gross retail tax paid by the person under this article in a retail transaction occurring after June 30, 2005, and before July 1, 2007, to acquire research and development equipment.

(c) To receive the refund provided by this section, a person must claim the refund under IC 6-8.1-9 in the manner prescribed by the department.

*As added by P.L.193-2005, SEC.11.*

#### **IC 6-2.5-6-17**

##### **Payment of gross retail tax for consignment sales**

Sec. 17. (a) A retail merchant that is a consignee in a retail transaction shall collect and remit the state gross retail tax on the gross retail income received in a consignment sale.

(b) The retail merchant shall provide the consignor purchaser an invoice that shows that the state gross retail tax was paid to the retail merchant with a clear notation on the invoice that the item was a consignment sale by the retail merchant on behalf of (insert the name of the seller) to (insert the name of the purchaser).

*As added by P.L.85-2009, SEC.1.*