

IC 6-7-3

Chapter 3. Controlled Substance Excise Tax

IC 6-7-3-1

"Controlled substance" defined

Sec. 1. As used in this chapter, "controlled substance" has the meaning set forth in IC 35-48-1-9.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-2

"Delivery" defined

Sec. 2. As used in this chapter, "delivery" has the meaning set forth in IC 35-48-1-11.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-3

"Department" defined

Sec. 3. As used in this chapter, "department" refers to the department of state revenue.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-4

"Manufacture" defined

Sec. 4. As used in this chapter, "manufacture" has the meaning set forth in IC 35-48-1-18.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-4.1

"Marijuana" defined

Sec. 4.1. As used in this chapter, "marijuana" has the meaning set forth in IC 35-48-1-19.

As added by P.L.65-1996, SEC.1.

IC 6-7-3-5

Imposition of tax; exemption

Sec. 5. The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered;
- (2) possessed; or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852. The tax does not apply to a controlled substance that is distributed, manufactured, or dispensed by a person registered under IC 35-48-3.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-6

Amount of tax; determination by gram weight; substance in possession

Sec. 6. (a) The amount of the controlled substance excise tax is

determined by:

- (1) the weight of the controlled substance; or
 - (2) the pill, capsule, hit, rock, or dosage when a controlled substance is delivered, possessed, or manufactured in that form.
- (b) The amount of controlled substance excise tax is as follows:
- (1) On each gram of a schedule I, II, or III controlled substance, except marijuana, forty dollars (\$40) for each gram and a proportionate amount for each fraction of a gram.
 - (2) On each gram of marijuana, three dollars and fifty cents (\$3.50) for each gram and a proportionate amount for each fraction of a gram.
 - (3) On each pill, capsule, hit, rock, or dosage of a schedule I, II, or III controlled substance, forty dollars (\$40).
 - (4) On each gram of a schedule IV controlled substance, twenty dollars (\$20) for each gram and a proportionate amount for each fraction of a gram.
 - (5) On each pill, capsule, hit, rock, or dosage of a schedule IV controlled substance, twenty dollars (\$20).
 - (6) On each gram of a schedule V controlled substance, ten dollars (\$10) for each gram and a proportionate amount for each fraction of a gram.
 - (7) On each pill, capsule, hit, rock, or dosage of a schedule V controlled substance, ten dollars (\$10).

(c) A gram of a controlled substance is measured by the weight of the substance in possession whether pure, impure, or diluted. A quantity of a controlled substance is diluted if the substance consists of a detectable quantity of pure controlled substance and any excipient, fillers, or waste.

As added by P.L.50-1992, SEC.1. Amended by P.L.65-1996, SEC.2.

IC 6-7-3-7

Delivery of substance to law enforcement officer; tax liability

Sec. 7. A person who delivers a controlled substance to a law enforcement officer is not relieved of the duty to pay taxes under this chapter.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-8

Payment of tax due on violation of state or federal laws; nondisclosure of identity of taxpayer

Sec. 8. The tax imposed under this chapter is due when the person receives delivery of, takes possession of, or manufactures a controlled substance in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852. A person may not be required to reveal the person's identity at the time the tax is paid.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-9

Payment of tax not conferring criminal immunity; use of confidential information

Sec. 9. The payment of the tax under this chapter does not make the buyer immune from criminal prosecution. However, confidential information acquired by the department may not be used to initiate or facilitate prosecution for an offense other than an offense based on a violation of this chapter.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-10

Issuance of evidence of payment; statement; term of validity; possession of taxpayer

Sec. 10. (a) The department shall issue evidence of payment of the tax to the person paying the tax. The evidence of payment must include a statement stating the following:

"THIS EVIDENCE OF PAYMENT DOES NOT LEGALIZE THE DELIVERY, SALE, POSSESSION, OR MANUFACTURE OF A CONTROLLED SUBSTANCE. THE UNAUTHORIZED DELIVERY, SALE, POSSESSION, OR MANUFACTURE OF A CONTROLLED SUBSTANCE IS A CRIME."

(b) The evidence of payment is valid for thirty (30) days after the payment is received by the department. A person who receives delivery of, takes possession of, or manufactures a controlled substance must also have a valid evidence of payment in the person's possession.

As added by P.L.50-1992, SEC.1. Amended by P.L.65-1996, SEC.3.

IC 6-7-3-11

Prohibited acts; failure or refusal to pay tax

Sec. 11. A person may not deliver, possess, or manufacture a controlled substance subject to the tax under this chapter unless the tax has been paid. A person who fails or refuses to pay the tax imposed by this chapter is subject to a penalty of one hundred percent (100%) of the tax in addition to the tax.

As added by P.L.50-1992, SEC.1. Amended by P.L.65-1996, SEC.4.

IC 6-7-3-12

Rules for enforcement of chapter; tax refund provisions

Sec. 12. The department may adopt rules under IC 4-22-2 necessary to enforce this chapter, including rules relating to the refunding of taxes paid under this chapter.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-13

Jeopardy assessment; duties of department

Sec. 13. An assessment for the tax due under this chapter is considered a jeopardy assessment. The department shall demand immediate payment and take action to collect the tax due as provided by IC 6-8.1-5-3.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-14

Jeopardy assessments; secondary lien to seizure and forfeiture provisions

Sec. 14. All jeopardy assessments issued for nonpayment of tax shall be considered a secondary lien to the seizure and forfeiture provisions of IC 16-42-20, IC 34-24-1, IC 34-24-2, and any federal law.

As added by P.L.50-1992, SEC.1. Amended by P.L.2-1993, SEC.60; P.L.1-1998, SEC.83; P.L.1-1999, SEC.17.

IC 6-7-3-15

Controlled substance tax fund; establishment; administration; expenses; interest; reversion to general fund; annual appropriation

Sec. 15. (a) The controlled substance tax fund is established to receive all the revenue collected by the department under this chapter.

(b) The fund shall be administered by the treasurer of state. Any expenses incurred in administering the fund shall be paid from the fund. Any interest earned on money in the fund shall be credited to the fund.

(c) Any revenue remaining in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) Money in the fund is annually appropriated to cover the department's administrative and enforcement expenses under this chapter and to make the distributions required by this chapter.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-16

Controlled substance tax fund; awards and distributions; prohibited uses; transfers to state drug free communities fund; collections from assessments

Sec. 16. (a) The department may award up to ten percent (10%) of the total amount collected from an assessment under this chapter to any person who provides information leading to the collection of a tax liability imposed under this chapter. An award made under this subsection must be made before any other distributions under this section.

(b) Whenever a law enforcement agency provides information leading to the collection of a tax liability imposed under this chapter, the department shall award thirty percent (30%) of the total amount collected from an assessment to the law enforcement agency that provided the information that resulted in the assessment. The law enforcement agency shall use the money the agency receives under this chapter to conduct criminal investigations. A law enforcement agency may not receive an award under more than one (1) subsection.

(c) The department shall award ten percent (10%) of the amount deposited in the fund during each month to the law enforcement training board to train law enforcement personnel.

(d) The department may use twenty percent (20%) of the amount

deposited in the fund during a state fiscal year to pay the costs of administration and enforcement of this chapter.

(e) Awards may not be made under this chapter to the following:

- (1) A law enforcement officer.
- (2) An employee of the department.
- (3) An employee of the Internal Revenue Service.
- (4) An employee of the federal Drug Enforcement Agency.

(f) All the money deposited in the fund that is not needed for awards or to cover the costs of administration under this chapter shall be transferred to the state drug free communities fund established under IC 5-2-10.

(g) An award made under subsection (a) or (b) shall be made on the basis of collections from each individual assessment that resulted from information supplied to the department by a person or law enforcement agency.

(h) Money shall be considered collected under this section only after all protest periods have expired or all appeals have been adjudicated.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-17

Controlled substances tax fund; monthly distributions and transfers; certification to state auditor; warrants

Sec. 17. (a) All distributions and transfers from the controlled substance tax fund shall be paid monthly by the fifteenth of the month following the month of collection.

(b) The department shall certify to the auditor of state the amount to be distributed to each law enforcement agency that is entitled to receive an award under section 16 of this chapter. The treasurer of state shall make the distributions upon warrants issued by the auditor of state.

As added by P.L.50-1992, SEC.1.

IC 6-7-3-18

Failure to pay as evidence in criminal sentencing order

Sec. 18. When sentencing a defendant following a prosecution for delivery, possession, or manufacture of a controlled substance in violation of IC 35-48-4, the court may consider evidence of the accused's failure to pay the excise tax required by this chapter. If the court finds that the defendant failed to pay the excise tax, the court may order the department to commence collection proceedings for the tax and any penalties, as part of the court's sentencing order.

As added by P.L.65-1996, SEC.5.

IC 6-7-3-19

Conditions on commencement of collection proceedings

Sec. 19. The department may not commence collection proceedings under this chapter unless the department:

- (1) is ordered to do so by a court in the court's sentencing order under section 18 of this chapter; or

(2) is notified in writing by the prosecuting attorney of the jurisdiction where the offense occurred that the prosecuting attorney does not intend to pursue criminal charges of delivery, possession, or manufacture of the controlled substance that may be subject to the tax required by this chapter.

As added by P.L.65-1996, SEC.6.

IC 6-7-3-20

Tax in addition to criminal penalties and forfeitures

Sec. 20. The excise taxes required by this chapter are intended to be in addition to any criminal penalties under IC 35-48-4 and forfeitures under IC 16-42-20, IC 34-24-1, or IC 34-24-2 (or IC 34-4-30.1 or IC 34-4-30.5 before their repeal).

As added by P.L.65-1996, SEC.7. Amended by P.L.1-1998, SEC.84.