

IC 6-9-12

Chapter 12. Marion County Food and Beverage Tax

IC 6-9-12-1

Definitions

Sec. 1. As used in this chapter:

"Beverage" includes, but is not limited to, any alcoholic beverage.

"Food" includes, but is not limited to, any food product.

"Gross retail income" has the same meaning as the definition of that term contained in IC 6-2.5-1-5.

"Person" has the same meaning as the definition of that term contained in IC 6-2.5-1-3.

"Retail merchant" has the same meaning as the definition of that term contained in IC 6-2.5-1-8.

As added by Acts 1981, P.L.99, SEC.1.

IC 6-9-12-2

Imposition of tax by ordinance

Sec. 2. (a) After January 1 but before June 1 of any year, the city-county council of a county that contains a consolidated city may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 3 of this chapter.

(b) If a city-county council adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a city-county council adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after June 30 of the year in which the ordinance is adopted.

As added by Acts 1981, P.L.99, SEC.1. Amended by P.L.16-1984, SEC.5.

IC 6-9-12-3

Taxable transactions

Sec. 3. (a) Subject to section 4 of this chapter, the tax imposed under this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in a county in which a consolidated first class city is located; and

(3) by a retail merchant for a consideration.

(b) Transactions described in subsection (a)(1) include, but are not limited to transactions in which food or beverage is:

(1) served by a retail merchant off his premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods

requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

As added by Acts 1981, P.L.99, SEC.1. Amended by P.L.257-2003, SEC.33.

IC 6-9-12-4

Exemptions

Sec. 4. The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

As added by Acts 1981, P.L.99, SEC.1.

IC 6-9-12-5

Rate of tax

Sec. 5. (a) Subject to subsection (b), the county food and beverage tax imposed on a food or beverage transaction described in section 3 of this chapter equals one percent (1%) of the gross retail income received by the retail merchant from the transaction. The tax authorized under this subsection expires January 1, 2041.

(b) On or before June 30, 2005, the city-county council of a county may, by a majority vote of the members elected to the city-county council, adopt an ordinance that increases the tax imposed under this chapter by an additional rate of one percent (1%) to a total rate of two percent (2%). The ordinance must specify that the increase in the tax authorized under this subsection expires on:

- (1) January 1, 2041;
- (2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the authority created by IC 5-1-17 or to any state agency under IC 5-1-17-26; or
- (3) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

If a city-county council adopts an ordinance under this subsection, it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue, and the increase in the tax imposed under this chapter applies to transactions that occur after June 30, 2005.

(c) For purposes of this chapter, the gross retail income received by the retail merchant from a transaction that is subject to the tax

imposed by this chapter does not include the amount of tax imposed on the transaction under IC 6-2.5.

As added by Acts 1981, P.L.99, SEC.1. Amended by P.L.214-2005, SEC.30.

IC 6-9-12-6

Liability; collection

Sec. 6. The person who acquires any food or beverage under a transaction described in section 3 of this chapter is liable for the county food and beverage tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the food or beverage. The retail merchant shall collect the tax as an agent for the county and the state.

As added by Acts 1981, P.L.99, SEC.1.

IC 6-9-12-7

Procedures for imposition, payment, and collection; returns

Sec. 7. The county food and beverage tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the county food and beverage tax may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

As added by Acts 1981, P.L.99, SEC.1.

IC 6-9-12-8

Payment to capital improvement board of county

Sec. 8. The amounts received from the county food and beverage tax shall be paid monthly by the treasurer of the state to the treasurer of the capital improvement board of managers of the county or its designee upon warrants issued by the auditor of state. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received from that portion of the county food and beverage tax imposed under:

(1) section 5(a) of this chapter for revenue received after December 31, 2027; and

(2) section 5(b) of this chapter;

in a special fund, which may be used only for the payment of the obligations described in this section.

As added by Acts 1981, P.L.99, SEC.1. Amended by P.L.214-2005, SEC.31.

IC 6-9-12-9

Repealed

(Repealed by P.L.214-2005, SEC.77.)