



DEPARTMENT OF REVENUE

INDIANA GOVERNMENT CENTER NORTH
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**COMMISSIONER'S DIRECTIVE #23
JULY 2013
(Replaces Directive #23 issued April 2004)
Effective Date: July 1, 2013**

SUBJECT: Delivery and Installation Charges Subject to Indiana Sales and Use Tax

REFERENCES: IC 6-2.5-1-5

DISCLAIMER: Commissioner's directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUMMARY OF CHANGES

Aside from nonsubstantive, technical changes, this directive has been changed from the previous version in response to SEA 608-2013, which exempts separately stated postage charges for mail or parcel delivery through the United States mail from the application of sales tax.

INTRODUCTION

Effective Jan. 1, 2004, Indiana enacted legislation to bring Indiana's sales and use tax statutes into conformity with the Streamlined Sales and Use Tax Agreement. Further changes were made effective March 18, 2004, by HEA 1365-2004, and May 13, 2013, by SEA 0608-2013.

STATUTORY CHANGES

P.L. 257-2003 amended IC 6-2.5-1-5 concerning the definition of "gross retail income." That amendment included delivery and installation in the definition of gross retail income, the amount in a transaction subject to Indiana sales tax. HEA 1365-2004 removed installation from the definition of gross retail income and amended IC 6-2.5-4-1 to state that the transfer of tangible personal property in a retail transaction does not take place until after delivery.

Effective July 1, 2013, SEA 0608-2013 amends IC 6-2.5-1-5 and removes separately stated "postage charges" from the definition of delivery charges subject to sales tax as part of the gross retail income of a transaction.

DELIVERY CHARGES

Delivery charges consist of transportation, shipping, crating, handling, packing, and postage charges that are not separately stated on the invoice, bill of sale, or similar document. SEA 0608-2013 removed from the definition of delivery charges "postage charges that are separately stated on the invoice, bill of sale, or similar document." Accordingly, separately stated postage charges do not constitute gross retail income and are not subject to sales tax.

"Postage charges" are defined to mean the purchase price of stamps or similar charges, as incurred by the seller on behalf of its customers, for mail or parcel delivery through the United States mail, without any additional amounts added to the actual price. Note: "postage charges" do not include any charges for mail or parcel delivery by any means other than through the United States mail. The term also does not include any amount representing a "mark up" over and above the purchase price of the stamps incurred by the seller.

Example #1 – A company has brochures delivered to its customer via a private, third-party delivery service. The company invoices its customer \$100 for the brochures and separately states an additional charge of \$10 for delivery. The entire invoice of \$110 is subject to sales tax.

Example #2 – A company has brochures delivered to its customer via the United States Postal Service. The company invoices its customer \$100 for the brochures and separately states an additional charge of \$10 for delivery. Only \$100 of the invoice is subject to sales tax, since postage charges through the United States mail are not subject to tax.

Delivery charges that are incurred on behalf of the seller of tangible personal property continue to fall within the definition of "gross retail income" and are subject to sales tax, regardless of the shipping terms used. However, delivery charges billed and furnished by a third party are exempt.

Example #3 – A company purchases a piece of equipment from the manufacturer. The purchasing company hires a trucking company to pick up the piece of equipment at the manufacturer's facility and deliver it to purchaser's location. The shipping charges are not subject to sales tax because they are not included in a retail transaction.

An additional exclusion from the application of sales tax exists for tangible personal property that is sold pursuant to an available exemption. If the item being sold is not subject to sales tax, the delivery charges related to that item also are not subject to sales tax. If some of the items being delivered are exempt and some of the items are subject to sales tax, the delivery charge attributable to the taxable items is subject to tax.

Example #4 – An office supply retailer purchases 500 ballpoint pens from a wholesaler for \$1,000. The wholesaler charges the retailer \$100 to deliver the

pens. The retailer issues an exemption certificate to the wholesaler indicating that the pens are being purchased for resale. The entire \$1,100 charge is exempt from sales tax.

Example #5 – An auto repair shop purchases repair parts for \$900 and shop materials consumed in the installation of the repair parts (such as paper towels, tape, glass cleaner, etc.) for \$100. Because the shop materials are not resold to customers (unlike the repair parts), they are subject to sales and use tax. The wholesaler charges the retailer \$100 to deliver the repair parts and materials. Ten percent of the \$100 delivery charges is subject to sales tax.

Other items of note include the application of sales tax to delivery charges for prepared food and tangible personal property incorporated into real property, as well as registration requirements for certain transportation companies.

When separately stated, sales tax does not apply to charges for serving or delivering food and food ingredients furnished, prepared, or served for consumption at a location or on equipment provided by a retail merchant. However, charges for delivery of prepared food **beyond the seller's location and not served on the seller's equipment** are subject to sales tax.

Example #6 – A pizza parlor imposes a \$3 charge to deliver pizzas to a customer's residence. The \$3 delivery charge is subject to sales tax.

Example #7 – A merchant caters an event at a location leased by the caterer. As a separate charge on the customer's invoice, the caterer charges the customer \$100 for delivering and serving the food. The \$100 is not subject to sales tax.

Example #8 – A merchant caters an event at a location provided by the customer. As a separate charge on the customer's invoice, the caterer charges the customer \$100 for delivering and serving the food. The \$100 is subject to sales tax.

While charges to incorporate tangible personal property into a permanent attachment to real property are not subject to sales tax, delivery charges related to construction materials are subject to tax. Contractors that enter into "time-and-materials" contracts are acting as retail merchants with regard to the tangible personal property transferred pursuant to such contracts. Any charges for delivery of tangible personal property included in a time-and-materials contract are subject to sales tax. Contractors that enter into "lump-sum" contracts must pay sales tax or accrue use tax on any delivery charges incurred by the contractor with regard to the tangible personal property transferred pursuant to such contracts.

Example #9 – A contractor enters into a time-and-materials contract to replace a driveway. The contractor charges its customer \$100 for gravel and \$25 to have it delivered to the jobsite. The contractor must collect sales tax on the entire \$125 charge.

Example #10 – A contractor enters into a lump-sum contract to replace a driveway. The contractor charges its customer a flat fee of \$5,000 to replace the driveway. The contractor purchases gravel from the aggregate company for \$100, and the aggregate company charges the contractor \$25 to deliver the gravel to the jobsite. The contractor must pay sales tax, or accrue use tax if he has given the aggregate company an exemption certificate, on the entire \$125 charge.

Transportation companies that purchase tangible personal property for delivery to customers and charge their customers for the tangible personal property will be required to register as retail merchants and collect sales tax on the entire charge for such transactions.

Example #11 – A residential customer orders 3 yards of white rock to be delivered from a hauling company. The hauling company proceeds to an aggregate company and purchases 3 yards of white rock that it delivers and dumps at the customer's residence. The hauling company does not mark up the price of the white rock from the price it paid at the aggregate company and adds that amount to its hauling charges. The hauling company is acting as a retail merchant and must collect sales tax on the entire amount it charges its customer for the white rock and delivery regardless of whether the charges are separately stated on the bill.

INSTALLATION CHARGES

Separately stated charges for installation that occurs after delivery and transfer of the tangible personal property are not subject to sales tax. Installation charges that are not separately stated from the selling price of an item or the delivery charge for an item will continue to be subject to sales tax. Note: charges made for the preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred before its transfer and installation are subject to sales tax, even when separately stated on the invoice, bill of sale, or similar document.



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