

## **COMMISSIONER'S DIRECTIVE # 31**

**June 2006**

**DISCLAIMER:** Commissioner's Directives are intended to provide non-technical 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.

**SUBJECT:** Fireworks Public Safety Fee

**REFERENCE:** IC 22-11-14-1; IC 22-11-14-8; IC 22-11-14-12; IC 22-11-14-13; and IC 22-11-14-14

### **I. INTRODUCTION**

House Enrolled Act 1099 which passed during the 2006 session of the Indiana General Assembly enacted a five percent (5%) public safety fee on the gross retail income of fireworks sold in Indiana. The fee is effective for all transactions occurring in Indiana after May 31, 2006.

### **II. DEFINITIONS**

The Act defines the various types of fireworks that will be subject to the fireworks public safety fee.

A "Consumer firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical compositions, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. Examples of consumer

fireworks are aerial devices, which include sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines and shells, firecrackers, salutes, and clusters.

“Special fireworks” means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than 130 milligrams of explosive composition, aerial shells and other display items that exceed the limits for classification for consumer fireworks.

The following items are also subject to the fireworks public safety fee. They include dipped sticks, wire sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers snakes or glow worms, smoke devices, and trick noisemakers.

### **III. IMPOSITION OF PUBLIC SAFETY FEE**

The public safety fee is imposed on the retail sale of fireworks in Indiana. The person who acquires the fireworks in a retail transaction is liable for the public safety fee on the transaction, and shall pay the public safety fee to the retailer as a separate added amount to the transaction. The retailer shall collect the public safety fee as an agent for the state.

The public safety fee is measured by the gross retail income received by the retailer for the sale of fireworks and is imposed at the following rates:

<b>PUBLIC SAFETY FEE</b>	<b>GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION</b>		
\$ 0		less than	\$ 0.10
\$ 0.01	at least \$ 0.10	but less than	\$ 0.30
\$ 0.02	at least \$ 0.30	but less than	\$ 0.50
\$ 0.03	at least \$ 0.50	but less than	\$ 0.70
\$ 0.04	at least \$ 0.70	but less than	\$ 0.90
\$ 0.05	at least \$ 0.90	but less than	\$ 1.10

If the retail transaction exceeds one dollar and ten cents \$1.10, the public safety fee is five percent (5%) of the gross retail income.

If the public safety fee computed results in a fraction of one-half cent (\$0.005) or more, the amount of the public safety fee shall be rounded to the next additional cent.

### **IV. REMITTANCE OF THE PUBLIC SAFETY FEE**

The public safety fee is collected by the retailer as an agent for the state. The public safety fees collected in trust for the state makes an individual retailer, an employee,

officer, partner in a partnership or member of a limited liability company personally liable for the payment of the public safety fee to the state. A person who knowingly or intentionally fails to collect or remit the public safety fees due commits a Class D felony.

The public safety fee is due twenty (20) days after the end of the month in which the public safety fee was collected. The public safety fee shall be remitted to the Department on forms required by the Department.

## **V. REGISTRATION WITH THE DEPARTMENT OF REVENUE**

The Act requires any person selling consumer fireworks, special fireworks, or novelties and trick noisemakers at retail to collect the public safety fee. The Act requires all retailers that are selling consumer fireworks to register with the state fire marshal. The entities that register with the state fire marshal will automatically be registered with the Department and will receive the forms necessary to remit the public safety fee.

A person that is required to register with the state fire marshal and receive a certificate of compliance as a resident wholesaler, manufacturer, importer, or distributor is not prohibited from selling consumer fireworks at retail if the consumer fireworks are to be used on the property of the purchaser, or on the property of another person who has given permission to the purchaser to use the consumer fireworks.

A retailer who is selling items listed in IC 22-11-14 -8(a), which includes sparklers, snakes, ground spinners, smoke devices, and trick noisemakers among other things will be required to collect the public safety fee. All wholesalers, manufacturers, importers, and distributors are required to provide a list to the state fire marshal of all retailers to whom they have sold or will sell these items.

A retailer selling items listed in IC 22-11-14-8(a) from a temporary stand must obtain a fireworks stand retail sales permit from the state fire marshal. These retailers are required to collect and remit the public safety fee to the Department and will receive forms from the Department to remit the fee.

A handwritten signature in black ink that reads "John Eckart". The signature is written in a cursive style with a large, looping initial "J".

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John Eckart  
Commissioner