



# INDIANA DEPARTMENT OF REVENUE

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Indiana Government Center  
100 N. Senate Ave  
Indianapolis, IN 46204-2253

**INFORMATION BULLETIN #51  
SALES TAX  
JULY 2021  
(Replaces Bulletin #51 dated July 2007)  
Effective Date: Upon Publication**

**SUBJECT:** Public Utilities

**REFERENCES:** IC 6-2.5-4-5; IC 6-2.5-4-6; IC 6-2.5-5-3

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## **SUMMARY OF CHANGES**

This bulletin has been changed to reflect the addition of IC 6-2.5-5-10.5 as part of SEA 383 (2021). The bulletin was also updated to include guidance concerning exemptions for wastewater utilities and to reflect the department's position regarding the application of non-utility exemptions to utilities.

## **I. INTRODUCTION**

A person engaged as a "public utility" is a retail merchant making a retail transaction when the person furnishes or sells electrical energy, natural or artificial gas, water, steam or steam heating. The term "public utility" refers to any organization of any kind or nature furnishing or selling those services listed above and having the right to eminent domain or being subject to governmental regulation in any phase of its operation in furnishing those services. A "power subsidiary" means a corporation which is owned or controlled by one or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.

For purposes of purchasing items exempt from the sales tax, a person that contracts with a municipality to operate, manage or control any plant or equipment owned by the municipality for the collection, treatment or processing of wastewater, is considered to be a public utility.

The act of registering to be regulated by governmental units is not the activity which creates a public utility. It is the performance of that act which should be regulated by a governmental unit, that creates the responsibility of a public utility to collect and remit taxes.

## **II. PUBLIC UTILITIES AND POWER SUBSIDIARIES FURNISHING ELECTRICAL ENERGY AND/OR STEAM HEAT**

Purchases of tangible personal property by electric or steam utilities, or a power subsidiary thereof, are generally subject to sales tax. Property purchased that constitutes “production plant” or “power production” expenses as classified pursuant to the “Uniform System of Accounts,” which was adopted and prescribed for the utility by the Indiana Utility Regulatory Commission, are exempt from sales and use tax.

As of May 1, 2021, purchases of utility scale battery energy storage systems by a public utility or a power subsidiary that sells or furnishes electricity are exempt from sales and use tax. A utility scale battery energy storage system is defined as a system that is capable of storing and releasing greater than 1MW of electrical energy for a minimum of one hour utilizing an AC inverter and DC storage, or equipment which receives, stores, and delivers energy using batteries, compressed air, pumped hydropower, hydrogen storage (including hydrolysis), thermal energy storage, regenerative fuel cells, flywheels, capacitors, and superconducting magnets, but does not include foundations or property used to directly or indirectly connect the AC inverter or DC storage of such system to electrical energy production equipment or the customer’s meter.

Public utilities and power subsidiaries may also qualify for other sales and use tax exemptions when engaged in activities other than producing electricity or furnishing electricity to consumers. The purchase of distribution and transmission equipment acquired by a public utility engaged in generating electricity is not exempt from the sales and use tax.

## **III. PUBLIC UTILITIES AND POWER SUBSIDIARIES FURNISHING NATURAL OR ARTIFICIAL GAS**

Purchases of tangible personal property by natural or artificial gas utilities, or a power subsidiary thereof, are generally subject to sales tax unless the property purchased constitutes “production plant,” “storage plant,” “production expenses” or “underground storage expenses” as classified pursuant to the “Uniform System of Accounts,” which was adopted and prescribed for the utility by the Indiana Utility Regulatory Commission.

Public utilities and power subsidiaries may also qualify for other sales and use tax exemptions when engaged in activities other than producing natural or artificial gas or furnishing gas to consumers.

#### **IV. PUBLIC UTILITIES AND POWER SUBSIDIARIES FURNISHING WATER**

Purchases of tangible personal property by water utilities, or power subsidiaries thereof, are generally subject to sales tax unless the property purchased constitutes “source of supply plant and expenses,” “pumping plant and expenses” or “water treatment plant and expenses” as classified pursuant to the “Uniform System of Accounts,” which was adopted and prescribed for the utility by the Indiana Utility Regulatory Commission.

Public utilities and power subsidiaries may also qualify for other sales and use tax exemptions when engaged in activities other than producing water or furnishing water to consumers.

#### **V. PUBLIC WASTEWATER UTILITIES**

Purchases of tangible personal property by wastewater utilities, including persons contracting with a municipality to operate, manage, or control any plant or equipment owned by the municipality for the collection, treatment, or processing of wastewater, are generally subject to sales tax unless the property purchased constitutes “collection plant and expenses,” “disposal plant and expenses,” or “system pumping plant and expenses.” Examples of qualified expenditures include transactions for tangible personal property related to land and land rights, structures and improvements, operation supervision and engineering, and maintenance supervision and engineering. More qualified expenditures can be found IC 6-2.5-5-12.5.



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Robert J. Grennes, Jr.  
Commissioner