

INFORMATION BULLETIN #59

SALES TAX

DECEMBER 2002

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SUBJECT: Advertising Signs and Billboards

REFERENCES: IC 6-2.5-4-1, IC 6-2.5-4-10

The taxability of billboards and advertising signs for sales tax purposes requires a determination of whether the rental of the advertising space is the rental of tangible personal property or the sale of a service. If the rental of the advertising space is the rental of personal property, then the rental is subject to tax. If the transaction of allowing someone to use a billboard or other advertising space is the sale of a service, then the transaction is not subject to tax.

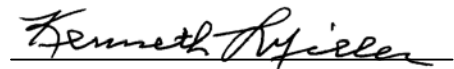
The key element in determining whether the transaction is a rental or a service is who controls the property. If the person paying for the use of the advertising space controls the space, the transaction is a rental of the space and is taxable. If the person using the property does not control the property then the transaction is a service.

The person paying for the use of the space has control when that person can determine the location of the advertising space or has the right to direct how the advertising space will be used. The person using the space must have exclusive use of the space. Other factors indicating control are whether the customer provides upkeep and maintenance of the space, and whether the customer pays for the posting of the advertising material.

EXAMPLES:

1. A person, who owns a portable advertising sign, lets a customer use the sign for one month for five hundred dollars (\$500). The customer's employees move the sign to a location determined by the customer and put a message on the sign also determined by the customer. The transaction between the sign owner and the customer is a rental subject to sales tax.
2. A person owns a billboard next to a major highway. The billboard cannot be moved. A customer pays to display an advertisement for thirty days. The customer chooses the advertisement's content but the sign owner employs the people who affix the ad to the billboard. The owner also pays for any upkeep and insurance for the billboard and also owns the property on which the billboard is erected. The transaction is a service because the customer does not control the advertising space.

All materials purchased by a person who provides the service of displaying a customer's advertisements are subject to sales and use tax, including any materials incorporated into the advertising structure itself. All materials purchased to be rented or leased to a customer may be purchased exempt from sales or use tax.



Kenneth L. Miller
Commissioner