

## INFORMATION BULLETIN #70

### SALES TAX

MAY, 2003

**DISCLAIMER:** Information Bulletins 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, which 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:** Farm Markets

**REFERENCES:** IC 6-2.5-2; IC 6-2.5-5-20; IC 6-2.5-6; IC 6-2.5-8-1; IC 6-2.5-8-8;  
IC 6-2.5-8-9; IC 6-8.1-10

**The purpose of this bulletin is to provide Indiana sales tax information for persons operating private Farm Markets or participating in organized Farmers or City Markets.**

I. Persons selling produce and various items of food for human consumption are not required to charge and remit sales tax on these items and are not required to register with the Indiana Department of Revenue as a Retail Merchant if that is the only item they sell. This exemption for food items does not apply to items such as candy, soft drinks and food items sold for immediate consumption such as sandwiches, soups and other prepared food items sold for consumption at or near the premises.

II. Persons selling arts, crafts and items not suitable or intended for human consumption are retail merchants and must register and collect Indiana Sales Tax on such sales. Items in this category may include but are not limited to: Potholders, bird houses, candles, cut flowers and flower arrangements, picnic tables, benches, chairs and other forms of lawn and patio furniture, and decorative and ornamental items such as gourds, ornamental corn and bittersweet.

III. If a person is selling taxable items such as described in Item II above, they must register with the Indiana Department of Revenue by completing and filing Form BT-1 Business Tax Application. **There is a one-time registration fee of \$25.00.** Upon registration and for the first full year the merchant will be required to file sales tax returns [Form ST 103] based on their estimated taxable sales volume as provided under items A. thru D. below. After the first year the account will be evaluated and the merchant will be required to file sales tax returns under the following schedule:

- A. If the average monthly tax collected is \$10.00 or less the return will be due on an annual basis.
- B. If the average monthly tax collected is between \$10.00 and \$25.00 the return will be due on a semi-annual basis.
- C. If the average monthly tax collected is between \$25.00 and \$75.00 the return will be due on a quarterly basis.
- D. If the average monthly tax collected is more than \$75.00 the return will continue to be due on a monthly basis.

A merchant that only does business during specific months of the year can elect to file on a seasonal basis which

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will only require the filing of monthly sales tax returns for the specific months the merchant is actually open for business.

Sales tax returns are due on the 30<sup>th</sup> day of the month following the close of the reporting period. (NOTE: Tax due in excess of \$1000.00 must be filed by the 20<sup>th</sup> day of the month following the close of the reporting period).

Any person desiring to register as a Retail Merchant may do so at the Taxpayer Services Office located on the 1<sup>st</sup> floor of Government Center North in Indianapolis or at any District Office of the Indiana Department of Revenue located through out the State. Registration may also be accomplished on the internet at: <http://www.in.gov/dor/taxforms/pdfs/bt-1.pdf>

IV. It may be expected that persons selling taxable items may, at times, sell their products to a commercial buyer for resale. If a person buys items for resale, he must issue an exemption certificate [Form ST-105 or other approved exemption certificate or a direct payment permit issued by the Indiana Department of Revenue] to the merchant. The merchant must retain a copy of the form or permit and will then report these sales as exempt sales on their Sales Tax return.

V. It is extremely important for a person, registered as a retail merchant, to file periodic sales tax returns in a timely manner. For each period, that a sales tax return is due, the person must file a return. If no tax was collected for that particular period, a return must be filed showing no tax due. The frequency and due date of such returns will be evaluated, after the first year, as provided under Item III.

VI. Failure to file returns or filing returns after the due date will result in the assessment of interest on any delinquent payment and the assessment of a penalty. If no return is filed for a taxable period the Department may issue a billing for that period based on the "Best Information Available" [BIA]. If such a billing is issued by the Department it will be the responsibility of the merchant to prove that billing was in error and establish the correct amount of tax, if any, that was actually due for that period. Penalty for delinquent payments is 10% of the tax due or \$5.00 whichever is greater. Penalty for failure to file a return is 20% of the tax due.

Persons having questions or desiring additional information may contact Taxpayer Services at (317) 233-4015 or any District Office of the Indiana Department of Revenue.



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Kenneth L. Miller  
Commissioner