



INDIANA DEPARTMENT OF REVENUE

Eric J. Holcomb, Governor
Adam J. Krupp, Commissioner

Indiana Government Center
100 N. Senate Ave, Rm 248
Indianapolis, IN 46204-2253

MEMORANDUM

DATE: August 2018
TO: Indiana State Employees
FROM: Indiana Department of State Revenue
RE: **Exemption for state agencies and instrumentalities from Sales Tax and County Innkeeper's Taxes on accommodations**

This is a reminder that when a state government agency or instrumentality procures accommodations for its employees, the transaction is **exempt from the state gross retail tax and county innkeeper's taxes** when the agency or instrumentality predominantly uses the accommodation to perform its governmental functions.

When an agency or instrumentality of the State of Indiana books a room, the purchase **must be invoiced to and be paid directly by** the state agency or instrumentality (i.e., with an agency travel card). A payment made by an employee is **not** an exempt transaction, and the facility will be legally required to charge sales tax and county innkeeper's taxes, even if the transaction is ultimately reimbursed by the agency or instrumentality. The enclosed Indiana General Sales Tax Exemption Certificate (Form ST-105) must be presented to the facility as well.

Due to issues with state agencies or instrumentalities being improperly charged county innkeeper's taxes (also referred to as "occupancy tax," "tourism tax," "county tax," "innkeeper's tax," etc.), it is advised that the following additional steps be taken when reserving accommodations:

- When booking the room, inform the facility this will be a transaction exempt from all taxes, including any county innkeeper, occupancy, or tourism taxes.
- Whomever is reserving the room (i.e. Cardholder, Travel Coordinator, etc.) should inform the hotel to add the name of the agency or instrumentality to the hotel bill in addition to the employee. The employee should make sure both names are listed on the bill at check-out. If not, ask the facility to add both names.
- Continue to ensure that the Exemption Certificate is provided to the facility **upon procurement** and again **at check-in** to ensure the facility exempts all taxes.

If all proper steps have been followed and the facility still refuses to exempt the transaction from a county innkeeper's tax, please present this Memorandum and have them contact the Indiana Department of Revenue's Tax Policy Division at TaxPolicy@dor.in.gov.

If the state agency or instrumentality pays the improperly charged county innkeeper's tax, a claim for refund can be made by completing and submitting state form 615 – the GA-110L – to the department. A copy of the GA-110L can be downloaded at <https://secure.in.gov/dor/3731.htm>.

For more information, please refer to [Sales Tax Information Bulletin #41](#) (January 2014) [relevant excerpted language attached hereto as **Exhibit I**] and [Sales Tax Information Bulletin #4](#) (June 2016).

STATE of INDIANA



INDIANAPOLIS, IN 46204-2253

DEPARTMENT OF REVENUE

INDIANA GOVERNMENT CENTER NORTH
100 N. SENATE AVE

INFORMATION BULLETIN #41

SALES TAX

JANUARY 2014

(Replaces Bulletin #41, dated September 2010)

Effective Date: Jan. 1, 2014

SUBJECT: Sales Tax Application to Furnishing of Accommodations

REFERENCES: IC 6-2.5-4-4; 45 IAC 2.2-4-8; 45 IAC 2.2-4-9

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 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

This version of the bulletin has been changed from the previous version to now include a hotel tax matrix, which identifies various hotel transactions and provides guidance as to whether those transactions are subject to sales/use tax and innkeeper's tax. This version of the bulletin also has been changed to clarify that if an accommodation is rented for 30 or more consecutive days, the renter is entitled to a refund of any sales tax paid on the first 29 days of the rental. Additional clarification also has been provided regarding the exemptions available to government and nonprofit rentals of accommodations.

INTRODUCTION

Indiana sales tax applies to the rental of rooms, lodgings, camping space, or other accommodations in Indiana furnished by any person engaged in the business of renting or furnishing such accommodations for periods of less than 30 consecutive days. Persons furnishing such accommodations must register as retail merchants and must collect sales tax from their customers.

DEFINITION OF ACCOMMODATIONS

“Accommodation” means any space, facility, structure, or combination thereof including booths, display spaces and banquet facilities, together with all associated real or personal property, which is intended for occupancy by persons for a period of less than 30 consecutive days. The term includes, but is not limited to, the following:

- Rooms in hotels, motels, lodges, ranches, villas, apartments, houses, bed and breakfast establishments, and vacation homes or resorts;
- Gymnasiums, coliseums, banquet halls, ballrooms, arenas, and other similar accommodations regularly offered for rent;
- Cabins or cottages;
- Tents or trailers (when situated in place);

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- Houseboats and other craft with overnight facilities;
- Space in camper parks and trailer parks wherein spaces are regularly offered for rent for periods of less than 30 days; and
- The renting or furnishing of cubicles or spaces used for adult relaxation, massage, modeling, dancing, or other entertainment to another person.

The term “accommodation” does not include vendor spaces occupied for periods of less than 30 consecutive days by merchandise trailers, absent the incorporation of tangible property or an amenity designed to support occupancy by human beings. Examples of amenities designed to support occupancy by human beings include, but are not limited to, utility connections and structures such as roofs and walls. Accordingly, “primitive” campsites (those that provide no amenities) and parking spaces for cars and trucks are not included in the term “accommodation.”

IMPOSITION OF TAX

The tax is imposed on the gross receipts received by the retail merchant and includes the amount that represents consideration for the rendition of those services which are essential to the furnishing of rooms or accommodations, as well as those services which are provided in the ordinary and regular course of business of furnishing rooms or accommodations. Such amounts are subject to tax even if they are separately itemized on the statement or invoice. This includes, but is not limited to, telephone access charges, food or drink services provided by a retail merchant to customers, and membership fees charged to customers, provided the charges are included in the room charge.

[Text omitted]

NONPROFIT AND GOVERNMENT RENTALS

[Text omitted]

With regard to Indiana state and local government entities, the tax does not apply to the rental of meeting rooms if the government entity predominantly uses the facility to perform its governmental function, submits a properly completed exemption certificate, and the accommodation is invoiced to and paid directly by the government entity. Similarly to rentals by federal government employees, but unlike the exemption available for charitable or nonprofit organizations, the rental of ordinary hotel/motel transient (i.e., sleeping) rooms for periods of less than 30 consecutive days to Indiana state or local government entities is not subject to sales tax. In order to qualify for the exemption, the government organization must submit a properly completed exemption certificate and the room must be invoiced to and paid directly by the government entity. Payment made by a government employee that will be reimbursed by the government entity disqualifies the purchase from exemption. The exemption available to state and local government entities is available only to Indiana state and local government entities and does not apply to out-of-state government entities. For more information related to the exemptions available to Indiana state and local government entities, please refer to the Hotel Tax Matrix below and Sales Tax Information Bulletin #4, available online at: <http://www.in.gov/dor/3650.htm>.

Example:

A county sheriff’s office rents a transient hotel room for one of its employees attending a conference on behalf of the office. The employee submits an ST-105 exemption certificate, claiming the government exemption, but pays for the room with his own credit card. He explains that he will be reimbursed by the county when he submits his travel report. The rental

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of the room is subject to tax. Had the employee paid for the room with a credit card or check in the name of the county, the rental would have been exempt from tax.

Note: A person is not a retail merchant if the person is a promoter that rents a booth or display space in a facility that is operated by a political subdivision (including a capital improvement board established under IC 36-10-8 or IC 36-10-9) or the state fair commission. However, this does not exempt the renting of accommodations by a political subdivision or the state fair commission to a promoter or an exhibitor.

[Remainder of text omitted – for more information please see full version located at <https://secure.in.gov/dor/reference/files/sib41.pdf>]