Sales Tax and Indiana University

CATS Meeting

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FACT OR FICTION?

INDIANA UNIVERSITY IS TAX EXEMPT SO WE DO NOT HAVE TO PAY SALES TAX.

FICTION
IU Tax Status

• **Exempt Organization**
  Nonprofit organization – Sec. 501(c)(3)

• **Instrumentality of the State of Indiana**
  • Governmental Entity – Sec. 115
  • Established by the State Legislature

• **Primary purpose is teaching, research, and public service**
ACQUISITIONS

PURCHASES AND INDIANA SALES TAX
Sec. 16. Transactions involving tangible personal property, public utility commodities, and public utility service are exempt from the state gross retail tax, if the person acquiring the property, commodities, or service:

(1) is the state of Indiana, an agency or instrumentality of the state, a political subdivision of the state, or an agency or instrumentality of a political subdivision of the state, including a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal); and

(2) predominantly uses the property, commodities, or service to perform its governmental functions.

Governmental vs. Proprietary

- Governmental:
  - Education
  - Research
  - Public Service

- Proprietary:
  - Outside the scope of activities of governmental and educational functions
  - Associated with the conduct of a private business
Exempt Transactions in Indiana

**Grocery Items**
- Food sold in an unheated state (excluding take-out)

**Services**
- Transactions in which there is little or no transfer of tangible personal property

**Purchases for resale**
What is Taxable in Indiana?

**Tangible Personal Property**
- Merchandise
- Prepared Food
- Computers

**Rentals**
- Meeting Rooms
- Arena/Gymnasium
- Equipment

**Lodging**
- Overnight Lodging <30 days
  - Hotels, Lodges, Apartments & Houses

**Taxable**
Taxable Retail Transactions and Exemption

IC 6-2.5-2-1 The person who acquires property in a retail transaction is liable for the tax on the transaction… **UNLESS**

- the article purchased is used by the organization to perform a governmental function and is exempt from sales tax on that basis.

- **BUT**, purchases for the private benefit of any member, such as meals and lodgings, are not eligible for exemption
Purchases of Meals and Exemption

- Purchases of food and beverages are **exempt if:**
  - Student recruitment within Indiana
  - Experiential learning for students
  - Function primarily for students

- The term **student** is defined to mean an individual enrolled or registered in courses that grant credit toward the attainment of an **undergraduate** or **graduate** degree or who is enrolled in an **elementary** or **secondary school**. The term **student** also includes any individual enrolled in **remedial courses** that are certified by the college or university.
Example

The University, through IU Conferences is hosting a 3-day conference in Indianapolis. The university rents meeting rooms in a hotel to conduct its educational conference. Meals are provided during the conference proceedings. The University reserves and pays for, out of its IU funds, the cost of hotel rooms for the attendees and speakers. What is exempt?

• Rental of meeting rooms ✨
• Purchases of meals ✗
• Hotel rooms ✗
Example

A Science Olympiad is held on campus for local non-IU students in grades 4-12. Food is provided for the student participants along with the judges of the event. The judges are both IU students and individuals with no connection to the University. Additionally, chairs, tables and other equipment are rented for the event. What is taxable?

- Food for students
- Food for IU judges
- Food for non-IU judges
- Equipment Rental

All transactions are exempt.
Example

Several qualified teachers from participating high schools attend a mandatory training program in order to certify them to teach a course for IU college credit at their high school. Once they complete the training, they are appointed as no pay adjunct faculty so they have access to IU resources. This seminar is held at the IMU and the IMU provides catering. During the review seminars, the participants have lunch at the Tudor Room. Are these individuals considered faculty or students for the purpose of these training/educational seminars? What is taxable?

- Lunch at the Tudor Room ✗
- Rental of Meeting Rooms ★
Hospitality Request Form

Event Information

Coordinator

Date of Function:

Start Date: [ ]
End Date: [ ]

Half Day

Start Time [ ]
End Time [ ]

Location

Event Purpose

Event Fee

Event Description

Event Attendance Information

Number of IU Faculty
Number of IU Staff
Number of IU Students
Number of K-12 Students
Other Guest Affiliation:

Select an option

Guest Description
Hospitality Request Form – Event Purpose Falling Under Exempt

- Commencement
- Ceremonies: Student Related
- Student Orientation
- Student Event
- Student Recruitment
- Graduate Student Luncheon
- Graduate Student Recruitment
Sample Catering Invoice Items

- Food
- Serving Staff
- Gratuities
- Delivery
- Equipment/Room rental
- Tablecloths, plates, glasses and silverware
4 P’s of Point of Sale Perfection

Purpose
Education, Research and Public Service

Purchaser
No Private Benefit

Proof
Form ST-105

Payment
No Reimbursement of Employees
## Sales Tax Purchases Matrix

<table>
<thead>
<tr>
<th>Description</th>
<th>Examples</th>
<th>Taxable</th>
<th>Exempt</th>
<th>Exceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accommodations</strong></td>
<td>8 41</td>
<td>?</td>
<td>X</td>
<td>An accommodation that is rented for 30 days or more is not subject to the sales tax</td>
</tr>
<tr>
<td>Meeting room rentals</td>
<td>?</td>
<td>Used to perform educational and governmental functions (teaching, research, &amp; public services). Does not include staff training or retirement function which is outside the university's mission.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accommodations in other states</td>
<td>?</td>
<td>States the university has been granted exemption (see list) <a href="http://www.fms.indiana.edu/tax/exempt.asp">http://www.fms.indiana.edu/tax/exempt.asp</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Food and Food Products</strong></td>
<td>B 7, 11, 20, 48</td>
<td>Grocery Items</td>
<td>X</td>
<td>Student recruitment within Indiana, experiential learning for students, or a function primarily for students</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Prepared &amp; catered food</td>
<td>?</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Food sold without eating utensils provided by seller in an untaxed state</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Prepared and catered food in other states</td>
<td>?</td>
<td>States the university has been granted exemption (see list) <a href="http://www.fms.indiana.edu/tax/exempt.asp">http://www.fms.indiana.edu/tax/exempt.asp</a></td>
</tr>
<tr>
<td></td>
<td>Services</td>
<td>Transactions in which there is little or no transfer of tangible personal property (e.g., legal, health care, photography, &amp; educational services).</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sales when bundled with tangible personal property and when taxable sales are bundled with exempt sales</td>
<td>?</td>
<td>A retail sale that is composed of a service that is the true object of the transaction and tangible personal property that is essential to the use of the service and provided exclusively in connection with the service. The price charged for tangible personal property is inconsequential (not to exceed 10%) compared with the service charge</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Purchases for resale</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tangible Personal Property</td>
<td></td>
<td>B 4, 10, 66</td>
<td>Items predominantly used to perform educational and governmental functions (teaching, research &amp; public service)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Items of personal benefit (ex. prizes, gift for retiring faculty/staff)</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Items used in generation of income in an activity that is customarily associated with the conduct of a private business and outside the scope of governmental and educational exempt functions (ex. Catering)</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Purchases delivered and used outside of Indiana</td>
<td>?</td>
<td>States the University has been granted exemption (see list) <a href="http://www.fms.indiana.edu/tax/exempt.asp">http://www.fms.indiana.edu/tax/exempt.asp</a></td>
</tr>
</tbody>
</table>

In order for the university to receive exemption from Indiana sales tax, the university must provide the Indiana University IT-105 to the seller and the purchase must be:

- invoiced directly to the state educational institution;
- paid for via University funds (e.g., wire, check, P-Cards); and
- for a governmental function and not a propriety activity.

**Definitions**

- **Bundle Transaction**: A retail sale of two or more products, except real property and services to real property, that are:
  1. distinct;
  2. identifiable, and
  3. sold for one non-itemized price

**Educational Mission**

- A teaching and instruction that involves educating citizens, businesses, and institutions of the state through the use of conventional and electronic classroom facilities to provide:
  - Courses that grants credit toward the attainment of an undergraduate or graduate degree;
  - First graduate practical training and instruction in academic disciplines offered by state universities;
  - Continuing education courses (non-credit);
  - Professional development activities, and
  - Educational conferences, seminars, and training meetings.

- Research that includes expanding the knowledge base of the citizens, businesses, and institutions of the state of Indiana through scientific inquiry and the dissemination of scholarly information. Activities associated with the fulfillment of this function include participation in laboratory and field research and the development and distribution of educational or research-related tools or materials that are published, copyrighted, or patented by a state college or university.

- Public service that includes activities that are consistent with other governmental and educational functions performed by the state of Indiana and other charitable, nonprofit purposes for which the university is granted exemption from Indiana adjusted gross income tax and federal income tax.

- Other university activities that are customarily undertaken in the conduct of governmental functions, including:
  - sponsoring continuing education activities;
  - operating the county extension service for the state;
  - providing public access to intercollegiate athletic functions;
  - providing public access to recreational and physical fitness facilities;
  - providing public access to musical, theatrical, and artistic performances;
  - providing access to informational and cultural events and productions; and
  - providing recruiting and development services including recruiting of students and faculty.

**Proprietary Activity**: An activity that generates revenues for state colleges or universities from the general public and that is both customarily associated with the conduct of a private business enterprise and that is outside the scope of activities of governmental and educational functions as defined for state colleges or universities.

- State agency is any authority, a board, a bureau, a commission, a committee, a department, a division, or another Instrumentality of the executive, legislative, or judicial departments of Indiana state government.

- Activities that serve the public’s general health, welfare and/or safety are considered to be governmental functions.

- **Studens**: An individual enrolled or registered in courses that grants credit toward the attainment of an undergraduate or graduate degree or who is enrolled in an elementary or secondary school. The term student also includes any individual enrolled in remedial courses that are certified by the college or university.

- **Student Function**: An event related to recruitment of students within Indiana, experiential learning for students, or primarily a student function put on for the benefit of students. Examples include: student commencement, student orientation, or campus student life event.

[http://www.fms.indiana.edu/tax-sales/PayingSalesTaxIntro.pdf](http://www.fms.indiana.edu/tax-sales/PayingSalesTaxIntro.pdf)
Charging Sales Tax

Sales of tangible personal property as part of a **proprietary activity** by a state college or university recognized as a governmental agency are subject to sales tax.
Proprietary Activity Examples

- Sales by a bookstore of items such as T-shirts, sweatshirts, hats, athletic apparel, memorabilia, class rings, license plates, etc.;
- Sales of books, stationery, haberdashery, supplies, or other property by an accredited college or university;
- **Sales of merchandise**, cards, clothing, toiletries, and other goods typically purchased in retail stores;
- **Sales of catering and food services provided to the general public**;
- Sales of computers, software, and related items;
- Sales of food and drink at athletic, theatrical, artistic, cultural, or informational events;
- **Receipts from the rental of accommodations for periods of less than 30 days to nonstudents**. The tax does not apply to any student renting lodging in a university residence hall while participating in a course of study for college credit at the college or university;
Student Exception to Proprietary Restriction

Sales of food and food ingredients by state colleges or universities are exempt pursuant to IC 6-2.5-5-22 if the purchaser is a student at the college or university.

Sales of food to members of the faculty or other employees are subject to Indiana sales tax. Sales of food to nonstudents of that college or university do not qualify for exemption.
**Sales Tax Matrix - Collection**

**INDIANA UNIVERSITY**

**Matrix - Indiana Sales Tax Collected by IU for Food and Lodging Services**

| Examples (see below) | IU Student or K-12 Student IU Conducted Educational Program | Conference Attendee | Federal Government | Exempt Entity 9 | Non-Exempt Entity 10 | Private Individual 1, 10 | IU & K/12 Student Function 5 | Non-Student Function (related to IU mission) 6, 7 | Non-Student Function (Not Related to IU mission) 8 |
|----------------------|-----------------------------------------------------------|---------------------|-------------------|-----------------|---------------------|--------------------------|-----------------------------|--------------------------------|
| Sales & Use Tax (7% IN State) |                                                                 |                     |                   |                 |                    |                          |                             |                               |                               |
| 1. Food & Beverage    | Exempt                                                     | Taxable             | Exempt            | +Taxable        | Taxable            | Taxable                  | Taxable                    | +Taxable                      | +Taxable                      |
| 2. Overnight Lodging (<30) | Exempt                                                   | Taxable             | Exempt            | +Taxable        | Taxable            | Taxable                  | Taxable                    | +Taxable                      | +Taxable                      |
| 3. Meeting Facility Rental | Taxable                                                  | Taxable             | Exempt            | *Exempt*        | Taxable            | Taxable                  | Taxable                    | Exempt                        | Taxable                      |
| 4. Equipment Rental   | Taxable                                                    | Taxable             | Exempt            | *Exempt*        | Taxable            | Taxable                  | Taxable                    | Exempt                        | Taxable                      |
| 5. Merchandise Sales  | Taxable                                                    | Taxable             | Exempt            | *Exempt*        | Taxable            | Taxable                  | Taxable                    | Exempt                        | Taxable                      |
| Innkeeper’s Tax       |                                                            |                     |                   |                 |                    |                          |                             |                               |                               |
| Overnight Lodging (<30) |                                                        |                     |                   |                 |                    |                          |                             |                               |                               |
| MONROE COUNTY (5%)    | Exempt                                                     | Taxable             | Exempt            | Taxable         | Taxable            | Taxable                  | Taxable                    | Exempt                        | Taxable                      |
| MORGAN COUNTY (5%)    | Exempt                                                     | Depends*            | Exempt            | Depends*        | Taxable            | Taxable                  | Exempt                      | Taxable                        | Taxable                      |
| MARION COUNTY (10%)   | Exempt                                                     | Taxable             | Exempt            | Depends*        | Taxable            | Taxable                  | Exempt                      | Taxable                        | Taxable                      |
| ST JOSEPH COUNTY (6%) | Exempt                                                     | Taxable             | Exempt            | *Exempt*        | Taxable            | Taxable                  | Taxable                    | Exempt                        | Taxable                      |
| FLOYD COUNTY NOT SUBJECT TO |                                                         |                     |                   |                 |                    |                          |                             |                               |                               |

* Exception for meals sold as a per plate fundraiser (IC 6-2.5-5-25 allows fundraising activities to be sales tax exempt).

* Must be for the Entities: Exempt Purpose Non IU entities must provide completed ST-105 to be exempt.

*Morgan County exempts a student, a participant, or a person accompanying a student or participant engaged in educational or therapeutic activities.

http://www.fms.indiana.edu/tax/sales/SalesTaxMatrix.pdf
Other States Exemptions

Nexus is a connection that a purchasing entity must sufficiently meet in order for a state to impose a tax.

Some states have no sales tax

Other states do not allow an exemption

http://www.fms.indiana.edu/tax/exempt.asp
CATS Knowledge Base

Activities/Transactions & Policies That Relate To Them

S-Z

- Sabbatical and Other Leaves - BC
- State Sales Tax Exemption (Indiana Sales Tax Exemption Certificate)
- Student Academic Appointee Codes - BC
- Tax Compliance - BC
  - Foreign Visitors and Foreign Vendors
    - Tax Issues Relating to Payments to Foreign Visitors and Vendors
  - Gifts, Prizes and Awards
    - Taxation of Gift, Prizes and Awards
  - Independent Contractors
    - Employee vs. Independent Contractor
    - Form 1099-MISC Reporting
  - Payroll Taxes
    - Payroll Tax Compliance
  - Sales and Use Tax
    - Sales Tax Information
  - Student and Scholar Resources
    - General Information about IRS Form 1098-T
    - Taxation of Scholarships & Fellowships – US Residents
  - Unrelated Busine Income (UBI)
    - Unrelated Business Income Tax
Contact Information

Financial Management Service – Tax Department
http://www.fms.indiana.edu/tax/
taxpayer@indiana.edu
Phone: 812.855.5657
Fax: 812.856.4861

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Sales Tax Exemption

Questions?