Sales Tax

Governmental Status, Payment, Collection

Susan Norrell, University Tax Manager

November 20, 2019
Agenda

• Purchases (Paying Sales Tax)
  o Governmental vs. 501(c)(3) Transition
• Collections (Brief Overview of Charging Sales Tax)
• Out of State Issues
• Questions

November 20, 2019
Why should I care about sales tax?

- IU makes purchases that are taxable.
  - Depending on the purchased items and their intended use, sales tax may be due.

- IU sells merchandise that is taxable and therefore must collect sales tax from the buyer.

- Compliance.
What is Taxable in Indiana?

• Tangible Personal Property
  • Merchandise
  • Prepared Food

• Rentals
  • Meeting Rooms
  • Arena/Gymnasium
  • Equipment

• Lodging
  • Overnight Lodging <30 days
  • Hotels, Lodges, Apartments & Houses
Basic rule of thumb:

“Taxable until Proven Exempt.”
PURCHASES

ON BEHALF OF INDIANA UNIVERSITY
[MONEY GOING OUT OF IU]
What kinds of items are not subject to Indiana sales tax?

- No exemption certificate necessary.
- Definition of “food” is very specific.

**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**
- Gift shop t-shirts.
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
Transition from 501(c)(3) to Governmental

- Previously, we conservatively focused our sales tax exemption on our status as a 501(c)(3) organization.
- We’ve recently transitioned into focusing our exemption on our status as an instrumentality of the state of Indiana, which is further-reaching.
  - Example: Prepared food was only exempt for student functions under our nonprofit exemption. Under our governmental exemption, as long as an event supports IU’s mission/business purpose, the exemption applies.
#1: Purpose

Instrumentality of the State of Indiana

- Established by the State Legislature in 1820.
- Governmental Entity – Sec. 115 of IRS code.
#1: Purpose

- **Teaching:** Imparting wisdom, instructing a class, etc.

- **Research:** “the systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions.”
  - Participating in a research project

- **Public services:** activities that reduce the governmental burden.
  - Example: Providing internet to rural schools.
Exempt Event Examples

• Any student-oriented function.

• Fulfills IU’s mission of teaching, research, public service.

• Meeting/conference where IU business is conducted.
#2: Purchaser

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.

- **HOWEVER**, purchases for the private benefit of any member are not eligible for exemption.
#3: Proof

- Can only be used in Indiana.
- Some suppliers require a personalized ST-105 made out for the specific transaction.
- University Tax Services can provide a specialized form if necessary.
What if I do everything right but the seller won’t accept our certificate?

This is rare, but even though our certificate protects the seller, it is the prerogative of the seller not to honor it.

- **Ideally, take our business elsewhere.**

- If this is not practical, go ahead and pay sales tax. If the dollar amount of the tax is substantial we can seek a refund from the state after the fact.
#4: Payment

- The transaction must be paid for directly with IU’s funds. The purchaser is not allowed to use IU’s exemption with their own funds.

- Can not be reimbursed later; must use IU’s funds at time of purchase to utilize exemption.

- Can use Procurement Card (P-Card), however the use of the P-Card does not guarantee tax exemption.
Lodging and Meals

- Purchases of lodging and prepared food/beverages are exempt if the meal is for an event that is part of IU’s mission/function.
- These purchases ARE NOT exempt if they are extracurricular, e.g., a retirement party.
In order for the university to receive exemption from Indiana sales tax, the purchaser must provide the Indiana University [ST-105](#) to the seller and the purchase must be:

1. invoiced directly to Indiana University;
2. paid for via University funds (e.g. wire, check, P-Card);
3. and for a governmental function and not a proprietary activity

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>EXAMPLES</th>
<th>NOT TAXABLE</th>
<th>TAXABLE</th>
<th>EXEMPT WITH ST-105</th>
<th>EXPLANATION (SEE DEFINITIONS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accommodations IB 41</td>
<td>Lodging</td>
<td>X</td>
<td>X</td>
<td></td>
<td>Follow 1.2 &amp; 3 above</td>
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<tr>
<td></td>
<td>Meeting room rentals</td>
<td>X</td>
<td>X</td>
<td></td>
<td>Follow 1.2 &amp; 3 above</td>
</tr>
<tr>
<td>Food IB 7, 11, 29, 68</td>
<td>Grocery items</td>
<td>X</td>
<td></td>
<td></td>
<td>Follow 1.2 &amp; 3 above</td>
</tr>
<tr>
<td></td>
<td>Prepared and catered food</td>
<td>X</td>
<td>X</td>
<td></td>
<td>Follow 1.2 &amp; 3 above</td>
</tr>
<tr>
<td>Services 45 IAC 2.2-4-2(a)</td>
<td>Purchase with no transfer of tangible personal property</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Purchase for services when bundled with tangible personal property</td>
<td>?</td>
<td></td>
<td></td>
<td>Not taxable when the tangible personal property is inconsequential (&lt;10%)</td>
</tr>
<tr>
<td>Tangible Personal Property IB 4, 10, 68</td>
<td>Purchases for resale</td>
<td>X</td>
<td></td>
<td>X</td>
<td>Follow 1 &amp; 2 above</td>
</tr>
<tr>
<td></td>
<td>Items used to perform governmental function</td>
<td>X</td>
<td>X</td>
<td></td>
<td>Follow 1.2 &amp; 3 above</td>
</tr>
<tr>
<td></td>
<td>Items used in generation of income for a proprietary activity</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Items of personal benefit (ex. prizes or gift for staff)</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Taxable purchase is bundled with exempt sale</td>
<td>?</td>
<td></td>
<td></td>
<td>Not taxable when the taxable sales are inconsequential (&lt;10%)</td>
</tr>
</tbody>
</table>
Purchases Web Page

- Purchasing Matrix
- ST-105
- Out-of-State Certificates (to be discussed later)

https://fms.iu.edu/tax/sales-tax/paying-sales-tax/
COLLECTIONS
FROM SALES ON BEHALF OF IU
[MONEY COMING INTO IU]
## If Your Payer is a...

<table>
<thead>
<tr>
<th>Examples (See Below)</th>
<th>IU/K-12 Student</th>
<th>Conference Attendee</th>
<th>Federal Govt.</th>
<th>Exempt Entity</th>
<th>Non-Exempt Entity</th>
<th>Private Individual</th>
<th>IU/K-12 Student Function</th>
<th>Related to Mission</th>
<th>Unrelated to Mission</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXTERNAL BILL</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EXEMPT</td>
<td>TAXABLE</td>
<td>EXEMPT</td>
<td>TAXABLE</td>
<td>TAXABLE</td>
<td>TAXABLE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>INTERNAL BILL TO IU DEPARTMENT</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>EXEMPT</td>
<td>EXEMPT</td>
<td>EXEMPT</td>
<td>EXEMPT</td>
<td>EXEMPT</td>
<td>EXEMPT</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Sales & Use Tax (7% in State)

1. **Food & Beverage**
   - Exempt
   - Taxable
   - Exempt
   - Taxable
   - Taxable
   - Exempt
   - Taxable

2. **Overnight Lodging**
   - Exempt
   - Taxable
   - Exempt
   - Taxable
   - Taxable
   - Exempt
   - Taxable

3. **Meeting Facility Rental**
   - Taxable
   - Taxable
   - Exempt
   - Taxable
   - Taxable
   - Taxable
   - Taxable

4. **Equipment Rental**
   - Taxable
   - Taxable
   - Exempt
   - Taxable
   - Taxable
   - Taxable
   - Taxable

5. **Merchandise Sales**
   - Taxable
   - Taxable
   - Exempt
   - Taxable
   - Taxable
   - Taxable
   - Taxable

### Innkeeper's Tax Overnight Lodging

<table>
<thead>
<tr>
<th>Monroe County (5%)</th>
<th>Exempt</th>
<th>Taxable</th>
<th>Exempt</th>
<th>Taxable</th>
<th>Taxable</th>
<th>Taxable</th>
<th>Exempt</th>
<th>Exempt</th>
<th>Taxable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morgan County (5%)</td>
<td>Exempt</td>
<td>Depends*</td>
<td>Exempt</td>
<td>Depends*</td>
<td>Depends*</td>
<td>Depends*</td>
<td>Exempt</td>
<td>Exempt</td>
<td>Taxable</td>
</tr>
<tr>
<td>Marion County (10%)</td>
<td>Exempt</td>
<td>Taxable</td>
<td>Exempt</td>
<td>Taxable</td>
<td>Taxable</td>
<td>Taxable</td>
<td>Exempt</td>
<td>Exempt</td>
<td>Taxable</td>
</tr>
<tr>
<td>St. Joseph County (6%)</td>
<td>Exempt</td>
<td>Taxable</td>
<td>Exempt</td>
<td>Taxable</td>
<td>Taxable</td>
<td>Taxable</td>
<td>Exempt</td>
<td>Exempt</td>
<td>Taxable</td>
</tr>
</tbody>
</table>

* 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.
Collecting Sales Tax Web Page

• Collections Matrix
• Information on Remitting Sales Tax
• Food and Beverage Tax

https://fms.iu.edu/tax/sales-tax/collecting-sales-tax/
OUT-OF-STATE
TRANSACTIONS ON BEHALF OF IU
What about purchases outside of Indiana?

• States do **not** recognize each other’s sales tax exemptions, therefore IU’s Indiana Sales Tax exemption does not apply anywhere but within Indiana.

• However, IU does have sales tax exempt status in several other states.
## Sample of Exemptions in Other States

<table>
<thead>
<tr>
<th>State</th>
<th>State Exemption Certificate</th>
<th>Expiration Date</th>
<th>General Purchases &amp; Services</th>
<th>Tax on Meals?</th>
<th>Meals Taxable?</th>
<th>Tax on Lodging?</th>
<th>Lodging Taxable?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>N/A</td>
<td>N/A</td>
<td>Taxable</td>
<td>N/A</td>
<td>Taxable</td>
<td>Yes</td>
<td>Taxable</td>
</tr>
<tr>
<td>Alaska</td>
<td>N/A</td>
<td>N/A</td>
<td>No State Sales Tax</td>
<td>N/A</td>
<td>No State Sales Tax</td>
<td>N/A</td>
<td>No State Sales Tax</td>
</tr>
<tr>
<td>Arizona</td>
<td>N/A</td>
<td>N/A</td>
<td>Taxable</td>
<td>N/A</td>
<td>Taxable</td>
<td>Yes</td>
<td>Taxable</td>
</tr>
<tr>
<td>Arkansas</td>
<td>N/A</td>
<td>N/A</td>
<td>Taxable</td>
<td>Select counties &amp; cities</td>
<td>Taxable</td>
<td>Yes</td>
<td>Taxable</td>
</tr>
<tr>
<td>California</td>
<td>N/A</td>
<td>N/A</td>
<td>Taxable</td>
<td>N/A</td>
<td>Taxable</td>
<td>N/A</td>
<td>Taxable</td>
</tr>
<tr>
<td>Colorado</td>
<td>Certificate</td>
<td>N/A</td>
<td>Exempt</td>
<td>N/A</td>
<td>Exempt</td>
<td>Yes</td>
<td>Exempt</td>
</tr>
</tbody>
</table>
What about collections outside of Indiana?

- There are various online dollar/transaction thresholds, which if reached, the buyer is responsible for collecting and remitting sales tax to that state (determined by shipping address).

- Indiana University currently has no way of determining whether or not we meet these online thresholds, but it’s in the works. A notification will be sent out if/when this is established.
What about collections outside of Indiana?

- If your department makes sales while **physically** at an out-of-state conference and you collect sales tax, you can remit it to us the same way as Indiana sales tax, only using a different account with a sub-account:

<table>
<thead>
<tr>
<th>*CHART</th>
<th>SUB-FUND</th>
<th>ORG</th>
<th>*ACCOUNT</th>
<th>SUB-ACCOUNT</th>
<th>*OBJECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>UA INTAGY TAX</td>
<td>9612773</td>
<td>FL</td>
<td>SALES TAX</td>
<td>9015 OTHER TAX</td>
<td>SALES TAX-...</td>
</tr>
</tbody>
</table>
Contact Information:

University Tax Services

https://fms.iu.edu/tax/

taxpayer@iu.edu