

HOUSE BILL No. 1323

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-2-7; IC 6-2.5-1-5; IC 6-6-15; IC 6-8.1-1-1.

Synopsis: Motorized equipment vehicle rental excise tax. Excludes certain motorized equipment vehicles from the assessment of the personal property tax. Imposes an excise tax on the rental of motorized equipment vehicles (excise tax). Provides procedures for the sourcing, collection, and distribution of the excise tax. Provides that the excise tax is apportioned and distributed to local governmental units in the same manner that property taxes are apportioned and distributed.

Effective: January 1, 2019.

Huston

January 16, 2018, read first time and referred to Committee on Ways and Means.



Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1323

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-2-7, AS AMENDED BY P.L.256-2017,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2019]: Sec. 7. (a) As used in this section, "nonbusiness
- 4 personal property" means personal property that is not:
 - 5 (1) held for sale in the ordinary course of a trade or business;
 - 6 (2) held, used, or consumed in connection with the production of
 - 7 income; or
 - 8 (3) held as an investment.
- 9 (b) The following property is not subject to assessment and taxation
- 10 under this article:
 - 11 (1) A commercial vessel that is subject to the net tonnage tax
 - 12 imposed under IC 6-6-6.
 - 13 (2) A vehicle that is subject to the vehicle excise tax imposed
 - 14 under IC 6-6-5.
 - 15 (3) A motorized boat or sailboat that is subject to the boat excise
 - 16 tax imposed under IC 6-6-11.
 - 17 (4) Property used by a cemetery (as defined in IC 23-14-33-7) if



- 1 the cemetery:
- 2 (A) does not have a board of directors, board of trustees, or
- 3 other governing authority other than the state or a political
- 4 subdivision; and
- 5 (B) has had no business transaction during the preceding
- 6 calendar year.
- 7 (5) A commercial vehicle that is subject to the annual excise tax
- 8 imposed under IC 6-6-5.5.
- 9 (6) Inventory.
- 10 (7) A recreational vehicle or truck camper that is subject to the
- 11 annual excise tax imposed under IC 6-6-5.1.
- 12 (8) The following types of nonbusiness personal property:
- 13 (A) All-terrain vehicles.
- 14 (B) Snowmobiles.
- 15 (C) Rowboats, canoes, kayaks, and other human powered
- 16 boats.
- 17 (D) Invalid chairs.
- 18 (E) Yard and garden tractors.
- 19 (F) Trailers that are not subject to an excise tax under:
- 20 (i) IC 6-6-5;
- 21 (ii) IC 6-6-5.1; or
- 22 (iii) IC 6-6-5.5.
- 23 **(9) For an assessment date after December 31, 2018, a**
- 24 **motorized equipment vehicle (as defined in IC 6-6-15-2) that**
- 25 **is rented or held in inventory for rental or sale, the rental of**
- 26 **which is or would be subject to the motorized equipment**
- 27 **vehicle rental excise tax under IC 6-6-15.**
- 28 SECTION 2. IC 6-2.5-1-5, AS AMENDED BY P.L.265-2013,
- 29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JANUARY 1, 2019]: Sec. 5. (a) Except as provided in subsection (b),
- 31 "gross retail income" means the total amount of consideration,
- 32 including cash, credit, property, and services, for which tangible
- 33 personal property is sold, leased, or rented, valued in money, whether
- 34 received in money or otherwise, without any deduction for:
- 35 (1) the seller's cost of the property sold;
- 36 (2) the cost of materials used, labor or service cost, interest,
- 37 losses, all costs of transportation to the seller, all taxes imposed
- 38 on the seller, and any other expense of the seller;
- 39 (3) charges by the seller for any services necessary to complete
- 40 the sale, other than delivery and installation charges;
- 41 (4) delivery charges; or
- 42 (5) consideration received by the seller from a third party if:



- 1 (A) the seller actually receives consideration from a party
 2 other than the purchaser and the consideration is directly
 3 related to a price reduction or discount on the sale;
 4 (B) the seller has an obligation to pass the price reduction or
 5 discount through to the purchaser;
 6 (C) the amount of the consideration attributable to the sale is
 7 fixed and determinable by the seller at the time of the sale of
 8 the item to the purchaser; and
 9 (D) the price reduction or discount is identified as a third party
 10 price reduction or discount on the invoice received by the
 11 purchaser or on a coupon, certificate, or other documentation
 12 presented by the purchaser.

13 For purposes of subdivision (4), delivery charges are charges by the
 14 seller for preparation and delivery of the property to a location
 15 designated by the purchaser of property, including but not limited to
 16 transportation, shipping, postage charges that are not separately stated
 17 on the invoice, bill of sale, or similar document, handling, crating, and
 18 packing. Delivery charges do not include postage charges that are
 19 separately stated on the invoice, bill of sale, or similar document.

20 (b) "Gross retail income" does not include that part of the gross
 21 receipts attributable to:

- 22 (1) the value of any tangible personal property received in a like
 23 kind exchange in the retail transaction, if the value of the property
 24 given in exchange is separately stated on the invoice, bill of sale,
 25 or similar document given to the purchaser;
 26 (2) the receipts received in a retail transaction which constitute
 27 interest, finance charges, or insurance premiums on either a
 28 promissory note or an installment sales contract;
 29 (3) discounts, including cash, terms, or coupons that are not
 30 reimbursed by a third party that are allowed by a seller and taken
 31 by a purchaser on a sale;
 32 (4) interest, financing, and carrying charges from credit extended
 33 on the sale of personal property if the amount is separately stated
 34 on the invoice, bill of sale, or similar document given to the
 35 purchaser;
 36 (5) any taxes legally imposed directly on the consumer that are
 37 separately stated on the invoice, bill of sale, or similar document
 38 given to the purchaser, **including an excise tax imposed under**
 39 **IC 6-6-15;**
 40 (6) installation charges that are separately stated on the invoice,
 41 bill of sale, or similar document given to the purchaser;
 42 (7) telecommunications nonrecurring charges; or



- 1 (8) postage charges that are separately stated on the invoice, bill
 2 of sale, or similar document.
- 3 (c) A public utility's or a power subsidiary's gross retail income
 4 includes all gross retail income received by the public utility or power
 5 subsidiary, including any minimum charge, flat charge, membership
 6 fee, or any other form of charge or billing.
- 7 SECTION 3. IC 6-6-15 IS ADDED TO THE INDIANA CODE AS
 8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 2019]:
- 10 **Chapter 15. Motorized Equipment Vehicle Rental Excise Tax**
- 11 **Sec. 1. This chapter applies only after December 31, 2018, to the**
 12 **rental of taxable motorized equipment vehicles.**
- 13 **Sec. 2. The following definitions apply throughout this chapter:**
- 14 (1) "Department" refers to the department of state revenue.
- 15 (2) "Gross retail income" has the meaning set forth in
 16 IC 6-2.5-1-5, except that the term does not include taxes
 17 imposed under IC 6-2.5 or the excise tax imposed under this
 18 chapter.
- 19 (3) "Motorized equipment vehicle" means a self-propelled
 20 motorized vehicle, including any attachment, that:
- 21 (A) is owned by a person that is a retail merchant in the
 22 business of renting motorized equipment vehicles;
- 23 (B) is not intended to be permanently affixed to any real
 24 property; and
- 25 (C) is not subject to registration under IC 9-18.1 for use on
 26 a public highway (as defined in IC 9-25-2-4).
- 27 However, the term does not include a motorized equipment
 28 vehicle that is rented for mining purposes or a motorized
 29 equipment vehicle that is eligible for a property tax abatement
 30 deduction under IC 6-1.1-12.1 during the calendar year.
- 31 (4) "Person" has the meaning set forth in IC 6-2.5-1-3.
- 32 (5) "Rental" means any transfer of possession or control of a
 33 motorized equipment vehicle for consideration:
- 34 (A) for a period not to exceed three hundred sixty-five
 35 (365) days; or
- 36 (B) for a period that is open ended under the terms of the
 37 rental contract with no specified end date.
- 38 (6) "Retail merchant" has the meaning set forth in
 39 IC 6-2.5-1-8.
- 40 **Sec. 3. (a) An excise tax, known as the motorized equipment**
 41 **vehicle rental excise tax, is imposed upon the rental of a motorized**
 42 **equipment vehicle from a retail merchant and from a location in**



1 **Indiana.**

2 (b) The motorized equipment vehicle rental excise tax imposed
3 under this chapter is two and twenty-five hundredths percent
4 (2.25%) of the gross retail income received by the retail merchant
5 for the rental.

6 **Sec. 4.** A transaction involving the rental of a motorized
7 equipment vehicle is exempt from the tax imposed by this chapter
8 if any of the following apply:

- 9 (1) The rentee is:
- 10 (A) the United States government;
 - 11 (B) the state;
 - 12 (C) a political subdivision (as defined in IC 36-1-2-13); or
 - 13 (D) an agency or instrumentality of an entity described in
 - 14 clauses (A) through (C).
- 15 (2) The transaction is a subrent of the motorized equipment
16 vehicle from a rentee to another person, and the rentee was
17 liable for the tax imposed under this chapter.

18 **Sec. 5.** A person that rents a motorized equipment vehicle is
19 liable for the motorized equipment vehicle rental excise tax on the
20 transaction. The person shall pay the tax to the retail merchant as
21 a separate amount added to the consideration for the transaction.
22 The retail merchant shall collect the tax as an agent for the state.

23 **Sec. 6. (a)** Subject to subsection (b), a retail merchant shall
24 remit the motorized equipment vehicle rental excise tax that the
25 retail merchant collects under this chapter in the same manner as
26 the state gross retail tax is remitted under IC 6-2.5.

27 (b) The motorized equipment vehicle rental excise tax imposed
28 under this chapter shall be sourced to the business location of the
29 retail merchant from which the motorized equipment vehicle is
30 rented.

31 (c) The return to be filed for the payment of the motorized
32 equipment vehicle rental excise tax may be either a separate return
33 or may be combined with the return filed for the payment of the
34 state gross retail tax, as prescribed by the department.

35 **Sec. 7. (a)** All revenues collected from the motorized equipment
36 vehicle rental excise tax must be deposited in a special account of
37 the state general fund called the motorized equipment vehicle
38 rental excise tax account.

39 (b) On or before May 20 and November 20 of each year, all
40 amounts held in the motorized equipment vehicle rental excise tax
41 account must be distributed to counties as provided by this section.

42 (c) The amount to be distributed to a county treasurer under



1 this section equals the part of the total motorized equipment
2 vehicle rental excise taxes being distributed that were initially
3 imposed and collected from within that county treasurer's county.
4 The department shall notify each county auditor of the amount of
5 taxes to be distributed to the county treasurer. At the same time
6 each distribution is made to a county treasurer, the department
7 shall certify to the county auditor the taxing districts within the
8 county where motorized equipment vehicle rental excise taxes were
9 collected and the amount of the county distribution that was
10 collected with respect to each taxing district.

11 (d) A county treasurer shall deposit motorized equipment
12 vehicle rental excise tax distributions in a separate account for
13 settlement at the same time as property taxes are accounted for
14 and settled in June and December of each year.

15 (e) The county auditor shall apportion and the county treasurer
16 shall distribute the motorized equipment vehicle rental excise taxes
17 among the taxing units of the county in the same manner that
18 property taxes are apportioned and distributed with respect to
19 property located in the taxing district where the motorized
20 equipment vehicle rental excise tax is sourced by the department
21 under section 6(b) of this chapter. The motorized equipment
22 vehicle rental excise taxes distributed to a taxing unit must be
23 allocated among the taxing unit's funds in the same proportion that
24 the taxing unit's property tax collections are allocated among those
25 funds.

26 (f) Taxing units of a county may request and receive advances
27 of motorized equipment vehicle rental excise tax revenues in the
28 manner provided under IC 5-13-6-3.

29 (g) All distributions from the motorized equipment vehicle
30 rental excise tax account must be made by warrants issued by the
31 auditor of state to the treasurer of state ordering those
32 distributions to the appropriate county treasurer.

33 SECTION 4. IC 6-8.1-1-1, AS AMENDED BY P.L.256-2017,
34 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JANUARY 1, 2019]: Sec. 1. "Listed taxes" or "taxes" includes only the
36 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat
37 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);
38 the slot machine wagering tax (IC 4-35-8); the type II gambling game
39 excise tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the
40 utility receipts and utility services use taxes (IC 6-2.3); the state gross
41 retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3);
42 the supplemental net income tax (IC 6-3-8) (repealed); the county



1 adjusted gross income tax (IC 6-3.5-1.1) (repealed); the county option
2 income tax (IC 6-3.5-6) (repealed); the county economic development
3 income tax (IC 6-3.5-7) (repealed); the local income tax (IC 6-3.6); the
4 auto rental excise tax (IC 6-6-9); the financial institutions tax
5 (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the special fuel tax
6 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
7 collected under a reciprocal agreement under IC 6-8.1-3; the vehicle
8 excise tax (IC 6-6-5); the aviation fuel excise tax (IC 6-6-13); the
9 commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed on
10 recreational vehicles and truck campers (IC 6-6-5.1); the hazardous
11 waste disposal tax (IC 6-6-6.6) (repealed); **the motorized equipment**
12 **vehicle rental excise tax (IC 6-6-15)**; the cigarette tax (IC 6-7-1); the
13 beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine
14 excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the
15 malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1);
16 the various innkeeper's taxes (IC 6-9); the various food and beverage
17 taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28);
18 the oil inspection fee (IC 16-44-2); the penalties assessed for oversize
19 vehicles (IC 9-20-3 and IC 9-20-18); the fees and penalties assessed for
20 overweight vehicles (IC 9-20-4 and IC 9-20-18); and any other tax or
21 fee that the department is required to collect or administer.

