

## **INFORMATION BULLETIN #57**

### **SALES TAX**

**SEPTEMBER 2011**

**(Replaces Bulletin #57 dated March 1995)**

**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 inconsistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, information provided in this bulletin should serve only as a foundation for further investigation and study of the current law and procedures related to its subject matter.

**SUBJECT:** Drop Shipments

**REFERENCES:** IC 6-2.5-3-1; IC 6-2.5-3-2; IC 6-2.5-3-6; IC 6-2.5-3-7; IC 6-2.5-8-8

**EFFECTIVE:** Upon Publication

### **I. INTRODUCTION**

Drop shipments involve the sale of goods by a seller who delivers the goods directly to the purchaser's customer. However, this is generally not a three-party transaction, but two two-party transactions. The first transaction is the sale from the seller to the purchaser. The second transaction is the sale from the purchaser to the purchaser's customer. There is not a direct transaction between the seller and the purchaser's customer.

The general statutes and regulations governing sales and use tax apply to both transactions.

### **II. DISCUSSION**

Indiana use tax is imposed on the storage, use, or consumption of tangible personal property acquired from a retail merchant in a retail transaction. A person who acquires tangible personal property from a retail merchant for delivery in Indiana is presumed to have acquired the property for storage, use, or consumption in Indiana, unless the person or the retail merchant can produce evidence to rebut that presumption. The locations of the seller and the purchaser are irrelevant to this analysis. It is the shipment of the property within or into Indiana that gives rise to the seller's obligation to collect sales or use tax.

A registered retail merchant is required to collect use tax on purchases delivered into Indiana and sales tax on purchases delivered within Indiana unless the merchant receives a valid exemption certificate from the purchaser. A person who makes a purchase in a transaction that is exempt from sales and use taxes may issue an exemption certificate to the seller instead of paying the tax.

The purchaser must issue the certificate on forms and in the manner prescribed by the Department. The following are the only persons authorized to issue exemption certificates:

- Retail merchants, wholesalers, and manufacturers who are registered with the Department;
- Not-for-profit organizations that are exempt from sales tax on the purchases in question; and
- Other persons who are exempt from the state gross retail tax with respect to any part of their purchases.

### **III. SALES FOR RESALE**

Generally, the exemptions form prescribed by the Department for resale purposes is the Form ST-105. When the purchaser is an Indiana registered retail merchant, the purchaser may issue an ST-105 to the seller and alleviate the seller's obligation to collect sales tax. Because the purchaser's customer is not a purchaser relative to the seller, the purchaser's customer cannot issue a valid exemption certificate to the seller. In addition to accepting the ST-105 exemption certificate, the purchaser may provide Form SSTGB Form F0003 (Streamlined Sales Tax Governing Board exemption certificate).

### **IV. CONCLUSION**

In the usual drop shipment scenario, the transaction that is subject to tax is the one between the purchaser and the purchaser's customer. Therefore, the liability for payment and collection will generally be determined by applying the sourcing rules in IC 6-2.5-13 and the general sales and use tax statutes in IC 6-2.5. The transaction between the seller and the purchaser will normally be exempt as a sale for resale if the above procedures are properly followed.

A handwritten signature in black ink that reads "John Eckart". The signature is written in a cursive style with a large, looping initial "J".

John Eckart  
Commissioner