

Sales Tax Information Bulletin #40

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(replaces bulletin #40, dated April 4, 1983)

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Subject: Prizes and Other Free Merchandise

Reference: IC 6-2.5-2-1, IC 6-2.5-3-1, IC 6-2.5-3-2

Tangible personal property, such as a radio, compact disc or an automobile, that is given away as a gift or a contest prize is subject to either sales or use tax. The person or organization liable for the tax is the person who gives the property away and not the person who receives the prize or gift.

Anyone purchasing tangible personal property to be given as a gift or prize should pay sales tax for the property at the time of purchase. However, if the buyer is exempt from sales or use tax for the purchase of the item, no tax would be due. An example of an organization that would be exempt from tax on the purchase of property to be given as a prize is a qualified not-for-profit organization. The organization must purchase the property for the purpose of raising money to carry on its not-for-profit purpose and use the money exclusively to further its not-for-profit purpose before the property is exempt from sales or use tax. (See Information Bulletin #10 Sales Tax for discussion of sales tax as it applies to not-for-profit organizations).

If the purchaser is not tax exempt for the purchase of the property, for example a for-profit radio station, but does not pay sales tax, the purchaser must pay use tax on the purchase price of the property. If the purchaser is registered as a retail merchant, the use tax may be reported on the merchant's sales and use tax return (form ST-103). Otherwise, the use tax must be reported on either the annual income tax return filed by the purchaser or a consumer use tax return (form ST-115).

The fact that persons or organizations who buy property to be given as prizes are liable for the tax does not prevent them from requiring that the recipient pay the tax as a condition to accepting the prize or gift. The Department of Revenue will not enforce the contract between the purchaser and recipient, but expects the purchaser to pay the tax.