



# STATE OF INDIANA

## DEPARTMENT OF REVENUE OFFICE OF THE COMMISSIONER

Indiana Government Center North  
100 North Senate Avenue, Room N248  
Indianapolis, Indiana 46204-2253

October 3, 2011

Scott Peterson  
Executive Director  
Streamlined Sales Tax Governing Board  
4219 Hillsboro Pike, Suite 234  
Nashville, TN 37215

Dear Scott:

This letter is in response to the memorandum concerning the preliminary report on 2011 annual recertification for Indiana.

The report recommends several citations be added to the Taxability Matrix. We have updated the Taxability Matrix to conform to the recommendations.

**Report Comment:** The statute cited for the exemption of free drug samples appears to only apply to insulin and insulin analogs.

**Response:** The code citation is correct; however we have added language to the notes section to clarify that the exemption for free samples of prescription drugs includes prescription drugs, drugs containing insulin or an insulin analog, and blood glucose monitoring devices.

**Report Comment:** The Taxability Matrix indicated that value-added non-voice data services are taxable. The statute provides an exemption.

**Response:** This is an error on our part; those services should be considered exempt in accordance with IC 6-2.5-4-6. The Taxability Matrix has been changed to reflect the exemption.

The report also suggested several changes concerning citations contained in the Certificate of Compliance. All of those changes have been made except for the following items:

**Report Comment:** Section 403, paragraph C, change IC 6-2.5-11-1 to IC 6-2.5-11-10;

**Response:** The citation referenced is IC 6-2.5-11-10.

“Equal Opportunity Employer”

**Report Comment:** Section 301; change the N/A to YES in questions 1, 2 and 4.

**Response:** Section 301 concerns state level administration and the recommended changes have been made along with the addition of the appropriate code cites.

**Report Comment:** Section 318; change the N/A to YES in paragraph A.

**Response:** Section 318 concerns uniform tax returns, and paragraph A concerns the filing of only one tax return for each taxing period for each seller for the state and all local jurisdictions. Indiana had replied N/A because there are no local sales taxes; however, only one return for each taxing period is required, so the more appropriate answer is YES. The appropriate code cite has also been added.

**Report Comment:** Section 318, the statute cited in paragraph F does not address a minimum of 30 days notice prior to establishing liability based solely on failure to file a return.

**Response:** The code cite provides for the methods used to provide an assessment for failure to file a return. It does not have language concerning the 30 day notice. The Department does not issue a proposed assessment based on the failure to file a return until 90 days after the due date of the original return. Although the provision is not in the statute, the Department's practice of billing is certainly in compliance with the 30 day rule.

**Report Comment:** Section 324 requires states to allow sellers to elect to compute tax due on a transaction, on an item or invoice basis, and shall allow rounding rule to be applied to aggregated state and local taxes.

**Response:** The Department cited the rounding rule for this Section; however there is no provision that allows the seller to elect to compute the tax due based on an item or invoice basis. The statute requires the tax to be based on the gross retail income of the transaction.

**Report Comment:** Section 328; change the YES to N/A. This provision concerns listing sales tax holiday exemptions in the taxability matrix.

**Response:** At the present time Indiana does not have any sales tax holidays, so N/A is the appropriate response.

**Report Comment:** Section 329 concerns the effective date for rate changes applying to the first billing period starting on or after the effective date. The report stated that no statutory authority could be found.

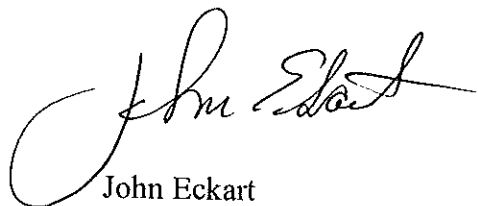
**Response:** If Indiana increases its sales tax rate, (as last done on April 1, 2008) it also enacts non code language to provide for the transition period, and for making the determination as to when services will be considered at the new rate. House Enrolled Act 1001-2008 SECTION 845 provides the language for the transition of services provided. It states:

“With respect to a transaction constituting the furnishing of public utility, telephone or related services, cable television or similar video and related services, cable radio, satellite television, or satellite radio services and related commodities, only transactions for which the charges are

collected upon original statements and billings dated after April 30, 2008, shall be considered as having occurred after March 31, 2008.”

If you have any further questions, please do not hesitate to contact Tom Conley at 323-2107

Sincerely,

A handwritten signature in cursive script, appearing to read "John Eckart". The signature is written in black ink and is positioned above the printed name and title.

John Eckart  
Commissioner