

TITLE 2

BUSINESS

Chapters:

1. County Innkeepers Tax
2. Food and Beverage Tax and Civic Center Authority
3. Temporary Sales Facilities for Motor Vehicles
4. Tax Abatement
5. Property Tax Liability

CHAPTER 1

COUNTY INNKEEPERS TAX

2-1-1. Application of Ordinance.

This ordinance applies to all persons engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in the county in any of the following:

hotel
motel
boat motel
inn
college or university memorial union
tourism cabin

and such shall be taxed at a rate of five percent (5%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed pursuant to IC 6-2.5.

2-1-2. Non-Applicability.

This chapter does not apply to gross income received in a transaction in which:

1. a student rents lodging in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in that county, or
2. a person rents a room, lodging or accommodations for a period of thirty (30) days or more.

2-1-3. Payment of Tax.

- A. As previously provided in Ordinance No. 1983-0-2, the Innkeeper's Tax shall be paid monthly to the Treasurer.
- B. The Treasurer may create forms for use by taxpayers for filing and collection of Innkeeper's Tax.
- C. For lodging facilities obligated to collect Innkeeper's Tax, a monthly report shall be submitted to the Treasurer, along with payment of any Innkeeper's Tax collected, by the 20th calendar day of the month following the month of collection, i.e. an Innkeeper's Tax monthly report shall be submitted by February 20th for activity in January.
- D. For purposes of this Ordinance, an Innkeeper's Tax monthly report shall be considered timely submitted if the envelope used to mail the report, and any payment, via first class US mail is postmarked on the 20th day of the month or before. The Treasurer shall also accept reports and any payments at the Treasurer's office.

- E. A monthly report is due from any lodging facility covered by the Innkeeper's tax law even if no Innkeeper's Tax has been collected in that previous calendar month.
- F. If the 20th day of the month falls on a Saturday, Sunday, or legal holiday, the Innkeeper's tax monthly report shall be submitted by the next following business day.
- G. Any monthly reports submitted after the due date must include a penalty calculated at 10% of the Innkeeper's Tax paid or to be paid, without prorating for the number of days that the monthly report is overdue.
- H. Recognizing that Indiana Code 6-9-29-3 provides that the Treasurer has the same rights and powers with the respect to collecting the Innkeeper's Tax as does the Department of State Revenue, the Treasurer is authorized to conduct audits and investigations of taxpayers concerning collection and payment of Innkeeper's Tax. Specifically, but not exclusive, the Treasurer may examine the books, records, papers, or other data bearing on the correctness of the Innkeeper's Tax returns, including those pertinent records of third parties handling funds for the credit of, or acting as an agent for, any lodging facility subject to the Innkeeper's Tax.
- I. Pursuant to Indiana Code 6-8.1-3-12, the Treasurer has concurrent jurisdiction with the Indiana Department of Revenue to investigate and audit Innkeeper's tax returns and reports; further, pursuant to Indiana Code 6-8.1-3-12(g)(3), at the discretion of the Treasurer, the cost of the audit of Innkeeper's Tax may be charged or assessed against the lodging facility audited.
- J. After completion of the audit, the results of the audit will be provided to the lodging facility by the audit firm or Treasurer.
- K. Upon receipt of the audit results, the Treasurer shall either:
 - 1. Remit to the lodging facility the amount of the Innkeeper's Tax overpaid; or
 - 2. Send a statement to the lodging facility for the amount of the Innkeeper's Tax due, requesting payment within thirty (30) business days of the date of the statement.
- L. The Treasurer may retain accountants or investigators for purposes of conducting audits of lodging facilities subject to the Innkeeper's tax; the Treasurer may retain legal counsel for purpose of the bringing of enforcement actions for collection of the Innkeeper's Tax and cost thereof.

(Ordinance No. 2008-004, Council meeting, 3/25/08)

2-1-4. Repealer.

This ordinance shall repeal all other ordinances that are inconsistent with the provisions and interest stated herein.

2-1-5. Effective Date.

This ordinance shall be in full force and effect from and after its passage or approval according to the laws of Indiana.

(Ordinance, Council meeting, 3/29/83; Ordinance 1993-21, Council meeting, 5/25/93)

CHAPTER 2

FOOD AND BEVERAGE TAX AND CIVIC CENTER AUTHORITY

2-2-1. County Food and Beverage Tax and Civic Center Authority.

There is hereby imposed an excise tax known as the county food and beverage tax, on those transactions described in IC 6-9-21-4, which transactions occur after the last day of the month that succeeds the month in which this ordinance is adopted.

2-2-2. Tax Amount.

The county food and beverage tax hereby imposed shall equal one percent (1%) of the gross retail income received by the merchant from the transaction as set forth in IC 6-9-21-5.

2-2-3. Civic Center Authority.

There is hereby established a civic center authority, composed of nine (9) members. The nine (9) members shall be appointed as follows:

- A. four (4) members appointed by the mayor of Muncie;
- B. three (3) members appointed by the board of commissioners; and
- C. two (2) members appointed by the council;

provided that no more than five (5) members of the civic center authority may be affiliated with the same political party and all members must reside in the county.

2-2-4. Powers.

The civic center authority herein established shall be known as the Delaware County Civic Center Authority and shall have all those powers given such authority under IC 6-9-21.

2-2-5. Effective Date.

This ordinance shall be in full force and effect upon adoption and thereafter a certified copy of the ordinance shall be sent to the commissioner of the Indiana Department of Revenue.

2-2-6. Repealer.

The council covenants with all persons with whom the Civic Center Authority enters into leases or contractual arrangements for the purpose of acquiring, operating, maintaining, and promoting the use of the civic center, that the taxes imposed by this ordinance shall not be repealed, amended, or altered in any manner that would reduce or adversely affect the levy and collection of such taxes or reduce the rates or amounts of such taxes, so long as such leases or contractual arrangements remain in effect.

(Ordinance, Council meeting, 6/24/86)

CHAPTER 3

TEMPORARY SALES FACILITIES FOR MOTOR VEHICLES

2-3-1. Definitions.

The following words and phrases when used within the ordinance herein, shall have the following words respectively subscribed to them in this section:

Motor vehicle means every vehicle which is self-propelled, but shall not include farm equipment, including farm tractors, implements of husbandry, and other similar vehicles.

Person means every natural person, firm, partnership, association, or corporation.

Dealer means a person who sells to the general public for delivery in the City of Muncie, or the county a minimum of twelve (12) vehicles per year.

Established place of business shall mean a permanent enclosed building or structure owned or leased for the purposes of bartering, trading, and selling motor vehicles, which meets the minimum standards prescribed by the Bureau of Motor Vehicles under any rules adopted under IC 4-22-2, and shall not include a residence, tent, temporary stand, or permanent quarters temporarily occupied.

Temporary sales facilities means any location which is utilized for the bartering, trading, or selling of motor vehicles which does not qualify as an established place of business.

New motor vehicle means every motor vehicle which has not been previously titled under IC 9-1-2-1 and carries a manufacturer's certificate of origin and has not been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

Used motor vehicle shall include any motor vehicle which has been previously titled under IC 9-1-2-1 and has been previously transferred by any manufacturer, distributor, or dealer to an ultimate purchaser, whether such transfer has occurred within or outside Indiana.

County shall mean the corporate territorial limits of Delaware County, including any incorporated towns.

City shall mean within the corporate limits of the City of Muncie.

(NOTE: Title 9, Articles 1-12 repealed.)

2-3-2. Established Place of Business Required.

No dealer shall be involved in the sale of any motor vehicles, in the city or county, whether they qualify as new motor vehicles or used motor vehicles, unless such dealer has an established place of business within said city or county.

Any dealer with an established place of business within the city or county shall be entitled to operate at his/her established place of business within the city or county any temporary sales facility. No other temporary sales facilities for the sale of motor vehicles shall be permitted within the city or county.

2-3-3. Penalties.

Any person who shall violate any of the provisions of this section shall be guilty of a violation, punishable by a fine of not more than one thousand dollars (\$1,000.00) per day. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to immediately cease and desist the continued operation of the temporary sales facility upon immediate notice from the city or its duly appointed representative or from the county or their duly appointed representative for the violation herein. When not otherwise specified, each day that a violation shall occur herein shall constitute a separate offense.

(Ordinance No. 48-1992 and 50-1992, Commissioners' meeting, 12/21/92)

CHAPTER 4

TAX ABATEMENT

2-4-1. Tax Abatement Reporting Committee and Procedures.

The Delaware County Auditor shall mail or distribute the executed CF-1 Compliance with Statement of Benefits forms to the applicant if approved by Delaware County Council. **(Resolution 2004-014, Council meeting, 5/25/04, Amendment to Resolution 1997-016-A, Council meeting, 1/17/98).**

The name of the Tax Abatement Committee is hereby changed to the Delaware County Council Tax Abatement Oversight and Procedure Committee. Said Committee shall continue to operate at the direction of the Delaware County Council and shall report to said Council at its regular monthly meeting.

The Committee shall prepare and adopt forms to be used in the administering of said program.

The Delaware County Auditor and the Tax Abatement Compliance Officer from the Muncie-Delaware County Chamber of Commerce shall be ex-officio members of said committee.

Applicants who receive Tax Abatements shall file with the Committee on an annual basis a County Tax Abatement Update Questionnaire. Also, upon receipt by the Auditor=s office of a company=s annual Form CF-I-Compliance with Statement of Benefits, copies shall be provided by the Auditor=s office to the Tax Abatement Committee Chairperson and the County Compliance Officer with ten (10) days of receipt to allow the committee to review in a timely manner.

(Resolution No. 1997-016-A, Council meeting, 1/17/98)

The Chamber of Commerce Compliance Officer will forward to the recipient a Tax Abatement Compliance Report at least sixty (60) days prior to the annual reporting date. The recipient shall complete said report and return it to the Compliance Officer thirty (30) days prior to the reporting date.

Upon receipt of a Tax Abatement Report, the Compliance Officer will notify the Chairman of the Committee and forward the reports to the Delaware County Auditor for processing and distribution to committee members.

The Delaware County Auditor=s office and the Chamber of Commerce office will maintain a supply of forms and shall provide sufficient copies of said reports for distribution to the public at the Council=s monthly meetings.

The members of the Committee shall, by annual scheduled visitation to the premises of each recipient of an abatement, verify the information provided in the Compliance Report.

Upon receipt of new applications for tax abatement, the Compliance Officer, shall within ten (10) days of the receipt thereof, provide a copy to the Committee Chairperson and to the Delaware County Auditor=s office.

The Committee shall continue to review said applications and make its recommendations to the Council.

(Resolution No. 1997-016, Council meeting, 9/13/97)

2-4-2. Tax Abatement Criteria.

The following criteria be duly approved and finally adopted for the granting of tax abatements on new manufacturing equipment:

1. The County Council may consider a tax abatement on new manufacturing equipment fixing the duration of said abatement for either a five (5) year period or a ten (10) year period.

For a five (5) year personal property tax abatement the following criteria must be met:

- a. Use of new or rehabilitated machinery or equipment must be within major groups 20-39 and 42 of the Standard Industrial Classification manual, published by the United States Office of Management and Budget, and
- b. All existing jobs will be retained as certified by the petitioner, and
- c. At least twenty percent (20%) of the new jobs to be created should be targeted to Job Training Program-eligible individuals.

For a ten (10) year personal property tax abatement the following criteria must be met:

Use of new or rehabilitated machinery or equipment must be within major groups 20-39 and 42 of the Standard Industrial Classification manual, published by the United States Office of Management and Budget, and

- a. All existing jobs will be retained as certified by the petitioner, and
- b. At least two hundred fifty (250) new jobs will be created by the applicant within a five (5) year period, and at least one hundred twenty-five (125) of these within three (3) years from the time of approval.

2. The percentages to be used for deductions are as follows:

a.	For a five (5) year period-	
	Year of deduction	Percent
	1st	100%
	2nd	95%
	3 rd	80%
	4 th	65%
	5 th	50%
	6 th and thereafter	0%

	For a ten (10) year period-	
	Year of deduction	Percent
	1st	100%

2 nd	95%
3 rd	90%
4 th	85%
5 th	80%
6 th	70%
7 th	55%
8 th	40%
9 th	30%
10 th	25%
11 th and thereafter	0%

As a condition of approval of any abatement requests, all companies receiving abatements agree to update the County Council on a semi-annual basis with regard to the status of employment at their respective facilities during the term of any abatements.

The Delaware County Auditor shall take such further actions as may be required to carry out the purposes of this ordinance.

(Ordinance No. 1994-39, Council meeting, 12/28/94)

1. “New research and development equipment” meaning any tangible personal property that:
 - (A) Is installed after June 30, 2000, and before January 1, 2006, in an economic revitalization area in which a deduction for tangible personal property is allowed;
 - (B) Consists of:
 - (i) Laboratory equipment;
 - (ii) Research and development equipment;
 - (iii) Computers and computer software;
 - (iv) Telecommunications equipment, or
 - (v) Testing equipment
 - (C) is used in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new product, new uses of existing product, or improving or testing existing products; and
 - (D) is acquired by the property owner for purposes described in this subdivision and was never before used by the owner for any purpose in Indiana.
The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy history, or similar projects.

2. New logistical distribution equipment meaning any tangible personal property that:
 - (A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:
 - (i) in which a deduction for tangible personal property is allowed; and
 - (ii) located in Delaware County, Indiana, and

- (B) consists of:
 - (i) racking equipment
 - (ii) scanning or coding equipment; or
 - (iii) separators;
 - (iv) conveyors;
 - (v) fork lifts or lifting equipment (including “walk behinds”);
 - (vi) transitional moving equipment;
 - (vii) packaging equipment;
 - (viii) sorting and picking equipment; or
 - (ix) software for technology used in logistical distribution; and
- (C) is used for the storage or distribution of goods, services, or information; and
- (D) before being used as described in clause (C), was never used by its owner for any purpose in Indiana.

3. New information technology equipment tangible personal property that:

- (A) is installed after June 30, 2004 and before January 1, 2006, in an economic revitalization area:
 - (i) in which a deduction for tangible personal property is allowed; and
 - (ii) is located in Delaware County, Indiana; and
- (B) consists of equipment, including software, used in the fields of:
 - (i) information processing;
 - (ii) office automation;
 - (iii) telecommunication facilities and networks;
 - (iv) informatics;
 - (v) network administration;
 - (vi) software development; and
 - (vii) fiber optics; and
- (C) before being installed as described in clause (A) was never used by its owner for any purpose in Indiana.

(Ordinance 2004-002, Council meeting, 5/23/04, Amending Ordinance 1994-39)

CHAPTER 5

PROPERTY TAX LIABILITY

2-5-1. Property Tax Liability.

Where the property tax liability for real estate, personal property or a mobile home assessed for a particular year is less than twenty-five dollars (\$25.00), such tax liability shall be due in one (1) installment on May 10th of the year that the property tax liability is due.

(Ordinance, Council meeting, 4/28/87)