

IC 6-9-44

Chapter 44. Town of Fishers Food and Beverage Tax

IC 6-9-44-1

Applicability

Sec. 1. This chapter applies to the town of Fishers.

As added by P.L.157-2013, SEC.2.

IC 6-9-44-2

Applicable definitions

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

As added by P.L.157-2013, SEC.2.

IC 6-9-44-3

Imposition of tax by ordinance; separate hearing

Sec. 3. (a) The fiscal body of the town may adopt an ordinance on or before December 31, 2013, to impose an excise tax, known as the town food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the town may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the town food and beverage tax is the only substantive issue on the agenda for that public hearing.

(b) If the town fiscal body adopts an ordinance under subsection (a), the town fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the town fiscal body adopts an ordinance under subsection (a), the town food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance is adopted.

As added by P.L.157-2013, SEC.2.

IC 6-9-44-4

Taxable transactions

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the town; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other

than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The town food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

As added by P.L.157-2013, SEC.2.

IC 6-9-44-5

Tax rate

Sec. 5. The town food and beverage tax rate may not exceed one percent (1%) of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

As added by P.L.157-2013, SEC.2.

IC 6-9-44-6

Collection procedures

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

As added by P.L.157-2013, SEC.2.

IC 6-9-44-7

Distribution of tax revenue

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the town fiscal officer upon warrants issued by the auditor of state.

As added by P.L.157-2013, SEC.2.

IC 6-9-44-8

Deposit of tax revenue

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by a town, the town fiscal officer shall establish a food and beverage tax

receipts fund.

(b) The town fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

As added by P.L.157-2013, SEC.2.

IC 6-9-44-9

Use of tax revenue

Sec. 9. Money in the food and beverage tax receipts fund shall be used by the town:

(1) to reduce the town's property tax levy for a particular year at the discretion of the town, but this use does not reduce the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for the town; or

(2) for economic development purposes, including the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations for economic development purposes.

Revenue derived from the imposition of a tax under this chapter may be treated by the town as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the town.

As added by P.L.157-2013, SEC.2.

IC 6-9-44-10

Covenants

Sec. 10. With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

As added by P.L.157-2013, SEC.2.