

IC 6-9-36

Chapter 36. Lake County and Porter County Food and Beverage Tax

IC 6-9-36-1

Application of chapter

Sec. 1. This chapter applies to the following counties:

- (1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (2) A county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

As added by P.L.214-2005, SEC.45. Amended by P.L.119-2012, SEC.76.

IC 6-9-36-2

Application of definitions

Sec. 2. The definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter.

As added by P.L.214-2005, SEC.45.

IC 6-9-36-3

Imposition of tax; rescission of tax; ordinances; transmission of ordinance to state

Sec. 3. (a) The fiscal body of a county described in section 1 of this chapter may adopt an ordinance to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 4 and 5 of this chapter that occur anywhere within the county.

(b) The following apply if the fiscal body of the county imposes a tax under this chapter:

- (1) The rate of the tax equals one percent (1%) of the gross retail income on the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5 or this chapter.
- (2) The fiscal body shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.
- (3) The tax applies to transactions that occur after the last day of the month that follows the month in which the ordinance was adopted.
- (4) The fiscal body may adopt an ordinance to rescind the tax. The rescission of the tax takes effect after the last day of the month that follows the month in which the ordinance to rescind the tax is adopted. However, the fiscal body may not rescind the tax if there are bonds outstanding or leases or other obligations for which the tax has been pledged under IC 36-7.5.

As added by P.L.214-2005, SEC.45.

IC 6-9-36-4

Transactions taxed

Sec. 4. Except as provided in section 6 of this chapter, a tax imposed under section 3 of this chapter applies to any 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 county or political subdivision, or both, in which the tax is imposed; and
- (3) by a retail merchant for consideration.

As added by P.L.214-2005, SEC.45.

IC 6-9-36-5

Transactions taxed

Sec. 5. Transactions described in section 4(1) of this chapter 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) 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 packaging used to transport the food).

As added by P.L.214-2005, SEC.45.

IC 6-9-36-6

Transactions exempt

Sec. 6. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

As added by P.L.214-2005, SEC.45.

IC 6-9-36-7

Collection and payment; returns

Sec. 7. The 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 for the payment of the taxes may be made on separate returns 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.214-2005, SEC.45.

IC 6-9-36-8

Distribution of revenue

Sec. 8. (a) The entire amount received from the taxes imposed by a county under this chapter shall be paid monthly by the treasurer of state to the treasurer of the northwest Indiana regional development authority established by IC 36-7.5-2-1.

(b) The taxes paid to the treasurer of the development authority under this section shall be deposited in the development authority fund established under IC 36-7.5-4-1.

As added by P.L.214-2005, SEC.45.