

# HOUSE BILL No. 1086

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-2.5.

**Synopsis:** Sales tax on complimentary hotel rooms. Retroactively provides that the furnishing of complimentary rooms to certain persons is exempt from the state sales tax. Allows refunds for taxes paid on exempt complimentary rooms after June 30, 2003.

**Effective:** July 1, 2003 (retroactive).

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**Hinkle, Lytle**

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January 20, 2004, read first time and referred to Committee on Ways and Means.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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# HOUSE BILL No. 1086



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-2.5-4-4.5, AS ADDED BY P.L.224-2003,  
2 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003 (RETROACTIVE)]: Sec. 4.5. (a) **This section does not  
4 apply to a room or lodging furnished on a complimentary basis  
5 that is exempt from the state gross retail tax under IC 6-2.5-5-39.**

6 (b) A person is a retail merchant making a retail transaction when  
7 the person furnishes rooms or lodgings to another person on a  
8 complimentary basis if:

9 (1) the rooms or lodgings are furnished for periods of less than  
10 thirty (30) days; and

11 (2) the rooms or lodgings are located in a hotel, a motel, an inn,  
12 a tourist camp, a tourist cabin, or other place where rooms or  
13 lodgings are regularly furnished for consideration.

14 (c) The state gross retail tax applicable to a retail transaction  
15 described in subsection (a) (b) is measured by the amount of gross  
16 retail income attributed to the transaction under this subsection. The  
17 amount of gross retail income attributed to a retail transaction



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described in subsection ~~(a)~~ **(b)** is equal to the **greater of:**  
**(1) the amount of gross retail income received by the retail merchant from renting a comparable room or lodging on the date the complimentary room or lodging is provided; or**  
**(2) the amount of gross retail income received by the retail merchant from renting a comparable room or lodging on July 1, 2003.**

The state gross retail tax imposed on a retail transaction described in subsection ~~(a)~~ **(b)** is six percent (6%) of the gross retail income attributed to the transaction.

SECTION 2. IC 6-2.5-5-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 39. A room or lodging furnished to a person on a complimentary basis is exempt from the state gross retail tax if the room or lodging is furnished to one (1) of the following:**

- (1) A person planning or attending a convention, if the following conditions are met:**
  - (A) The room or lodging is located in a hotel, a motel, an inn, a tourist camp, a tourist cabin, or another place where rooms or lodgings are regularly furnished for consideration.**
  - (B) The room or lodging is furnished to attract, plan, or promote the convention.**
  - (C) At least eighty percent (80%) of the rooms or lodgings furnished to patrons of the convention are furnished for consideration.**
- (2) An employee of the person furnishing the room or lodging.**
- (3) A charitable organization (as defined in IC 23-7-8-1).**
- (4) A person in an emergency.**

SECTION 3. IC 6-2.5-6-15, AS ADDED BY P.L.224-2003, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 15. (a)** A retail merchant described in IC 6-2.5-4-4.5 shall file with each return required under this chapter a report for the reporting period covered by the return. The report must contain the following information:

- (1) The number of rooms or lodgings rented during the reporting period and the total amount of state gross retail taxes remitted with respect to the rooms or lodgings.**
- (2) The number of complimentary rooms or lodgings provided during the reporting period that were not exempt from the state gross retail tax under IC 6-2.5-5-39 and the total amount of**

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1 state gross retail taxes remitted with respect to those rooms or  
 2 lodgings.  
 3 **(3) The number of complimentary rooms or lodgings provided**  
 4 **during the reporting period that were exempt from the state**  
 5 **gross retail tax under IC 6-2.5-5-39.**  
 6 **(b) Before April 1, 2004, a retail merchant described in**  
 7 **IC 6-2.5-4-4.5 shall file with the department a verified report**  
 8 **listing the prices charged by the retail merchant on July 1, 2003,**  
 9 **for rooms or lodgings.**  
 10 SECTION 4. [EFFECTIVE JULY 1, 2003 (RETROACTIVE)] (a)  
 11 IC 6-2.5-5-39, as added by this act, applies to a room or lodging  
 12 furnished after June 30, 2003.  
 13 (b) IC 6-2.5-4-4.5 and IC 6-2.5-6-15, both as amended by this  
 14 act, apply to a room or lodging furnished after June 30, 2003.  
 15 SECTION 5. [EFFECTIVE JULY 1, 2003 (RETROACTIVE)] (a)  
 16 If:  
 17 (1) a person subject to IC 6-2.5-4-4.5, as added by  
 18 P.L.224-2003, SECTION 49, paid the state gross retail tax on  
 19 a room or lodging that the person furnished on a  
 20 complimentary basis after June 30, 2003; and  
 21 (2) the room or lodging was furnished on a complimentary  
 22 basis to a person described in IC 6-2.5-5-39(1) through  
 23 IC 6-2.5-5-39(4), as added by this act;  
 24 the person is entitled to a refund.  
 25 (b) If a person entitled to a refund under subsection (a) files a  
 26 completed refund claim form prescribed by the department of state  
 27 revenue that includes all supporting documentation required by  
 28 the department, the department shall authorize the auditor of state  
 29 to issue a warrant for the refund.  
 30 (c) This SECTION expires January 1, 2005.  
 31 SECTION 6. An emergency is declared for this act.

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