

Notice Regarding Sales to Federally Recognized Indian Tribes or Their Qualifying Members

Sales to tribes who have entered into a tax agreement with the State of Michigan -

The State has entered into tax agreements with ten of the twelve federally recognized Indian tribes located in Michigan. Those tribes are identified on this website under the heading State/Tribal Tax Agreements and Amendments. You may view any agreement by clicking on the tribe of your choice. All agreements are substantively the same.

Pursuant to the tax agreements, these identified tribes and their qualifying members may claim exemption from Michigan sales or use tax for certain types of purchases identified on the form. Each tribe has the option of choosing which of the following exemption methods it, and its qualifying members, will use.

Exemption Certificate Method – The tribe may choose this method for itself only, or for both itself and its qualifying members. To utilize this method, the purchaser presents a Tribal Certificate of Exemption (form 3998), along with a copy of a Letter of Authorization from the Michigan Department of Treasury (Department), to the retailer at the time of purchase. All certificates (including those used by qualifying members) must be appropriately filled out and signed by the Tribe. In addition, the certificate and letter may only be used for the year identified on the form and letter. For example, a 2009 Tribal Certificate of Exemption may only be presented for transactions occurring in 2009. Where the purchaser has provided the retailer with an appropriately filled out Tribal Certificate of Exemption and Letter of Authorization, the purchaser may purchase the item in question exempt from Michigan sales or use tax and the retailer may exclude such sales from its gross receipts when calculating its sales and use tax liabilities. To assist in determining who may use these certificates, all authorized tribes are listed on the face of the certificate. It also specifies whether or not a tribe has authorized its qualifying members to use the certificate. Where a tribe has not authorized its members to use this method, the members must utilize the Refund Method identified below.

Refund Method – All purchases by tribes choosing this method, and their qualifying members, are subject to tax at the point of purchase. However, the tribe or qualifying member may file for a refund directly from the State.

Sales to tribes who have not entered into a tax agreement with the State of Michigan –

There are certain instances where Michigan sales or use taxes are federally preempted regarding sales to a federally recognized Indian tribe or their members. In order for the Department to verify such preemption, it has created special forms (forms 4765 and 4766) for the purchaser to fill out and forward to the Department. If the Department agrees that the State sales or use tax is preempted in that particular situation, it will either generate a letter of exemption to be given to the retailer at the time of purchase or issue a refund if the tax has already been paid and the refund request is received within the 90 day statute of limitations.

All sales to non-agreement tribes (or their members) are considered taxable unless the purchaser has either received a signed letter of exemption or a refund from the Department. Those whose claims have been denied will receive notice of the denial.

Note: The above protocols are only for exemptions that are based upon federal Indian doctrine principles or tax agreements. Exemptions that are based upon Michigan statute (e.g., industrial processing, purchases for resale) should be claimed in the same manner as others claiming such exemption (i.e., using the regular exemption form 3372).

Additional details may be obtained from viewing the agreement (if applicable) or contacting Tribal Affairs at (517) 241-2185.