

NATIVE AMERICAN TRIBES

Sales and Use Tax

Fact Sheet 2103-1

revenue.wi.gov

This fact sheet explains the sales tax exemption for sales made to Native American tribes and the sales tax treatment of certain reservation and casino activities.

For information relating to sales to tribal members, see [Fact Sheet 2103-2](#).

Sales Tax Exemption

Purchases by a federally recognized Native American tribe or band in Wisconsin are exempt from Wisconsin sales and use taxes.

This exemption became effective on August 1, 2009.

Which Native American tribes or bands qualify for this exemption?

The Bad River Band of Lake Superior Chippewa
Forest County Potawatomi Community
Ho-Chunk Nation
Lac Courte Oreilles Band of Lake Superior Chippewa
Lac du Flambeau Band of Lake Superior Chippewa
Menominee Nation
Oneida Nation of Wisconsin
Red Cliff Band of Lake Superior Chippewa
St. Croix Chippewa Community
Sokaogon Chippewa Community
Stockbridge-Munsee Community

Definitions:

"Native Americans" mean all persons of Native American descent who are enrolled members of any federally recognized tribe.

"Reservation" means all land within the boundaries of the Bad River, Forest County Potawatomi, Lac Courte Oreilles, Lac du Flambeau, Menominee, Mole Lake, Oneida, Red Cliff, St. Croix, and Stockbridge-Munsee reservations as well as any Ho-Chunk Nation lands.

"Tribe" means a federally recognized tribe or band of Native Americans and includes tribal entities and tribal authorities.

"Tribal reservation" means the reservation of the tribe of which a Native American is an enrolled member (e.g., the tribal reservation for an enrolled member of the Oneida Tribe is the Oneida reservation). Unless noted otherwise, whenever reservation is used in this fact sheet, it includes trust land.

"Trust land" means land the title to which is held in trust by the United States for the benefit of a tribe or an enrolled member of that tribe.

Note: The Ho-Chunk Nation does not have a consolidated reservation, but has trust lands in 14 counties.

How should a retailer document an exempt sale to a Native American tribe or band?

By one of the following:

- Obtaining a purchase order or similar written document from the tribe or band identifying the tribe or band as the purchaser.
- Obtaining a fully completed exemption certificate from the tribe or band (for example, Form S-211).
- Recording the tribe or band's Certificate of Exempt Status (CES) number on the invoice.

For information on how to document an exempt sale to a tribal member, see [Fact Sheet 2103-2](#).

Reservation Gambling and Casino Operations

The sales tax treatment of sales made through reservation and casino operations may vary depending on who the customer is.

Nontaxable sales include:

Sales to Native Americans who (1) live on the tribal reservation of the tribe operating the casino or bingo hall **and** (2) are tribal members of the tribe operating the casino or bingo hall.

For example: Meals, beverages and lodging sold to a Native American who lives on the tribal reservation of the tribe operating the casino and is also a tribal member of the tribe operating the casino, are not subject to sales and use tax.

The casino's gross receipts from wagers (for example, gross receipts from blackjack, slot machines and video poker).

Taxable sales include:

Sales of taxable products or services made to:

- Non-Native Americans
- Native Americans who live off their tribal reservations
- Members of a tribe other than the tribe who operates the casino

For example: A hotel located on the reservation sells lodging to non-Native Americans and Native Americans. Sales to non-Native Americans and Native Americans who live off their tribal reservation and Native Americans who are not members of the tribe operating the casino are taxable.

Construction Activities

Sales to Native American contractor on a reservation:

Sales of construction materials to a Native American contractor are exempt from Wisconsin sales tax if:

1. Delivery of the materials to the Native American contractor occurs on the Native American contractor's tribal reservation, **and**
2. The construction materials will be used on the Native American contractor's tribal reservation.

However, if the materials are later used off the Native American contractor's tribal reservation, the contractor will be subject to Wisconsin use tax.

[Publication 207](#), *Sales and Use Tax Information for Contractors*, provides additional information regarding the tax treatment of construction activities.

Sales to a Native American contractor off a reservation:

Sales to a Native American contractor, who takes delivery of construction materials off its tribal reservation is subject to Wisconsin sales and use tax unless federal preemption applies.

Federal preemption applies if:

1. The construction activity is performed for the tribe,
2. The construction occurs on the tribal reservation, and
3. The construction project will benefit the tribe.

Examples of construction projects that benefit a tribe include schools, administration buildings, casinos, hotels, wastewater treatment plants, convenience stores, and other projects that increase the tribal revenue or allow the tribe to perform functions it would otherwise hire others to perform.

Sales to a non-Native American contractor on or off a reservation:

The sale and delivery of construction materials to a non-Native American contractor on or off a reservation, which the contractor uses in a construction project on the reservation, for the tribe, are subject to Wisconsin sales and use tax unless federal preemption applies.

Any questions? Visit our website at revenue.wi.gov or contact us:

DORSalesandUse@revenue.wi.gov
Wisconsin Department of Revenue
PO Box 8949, Mail Stop 5-77
Madison WI 53708-8949
(608) 266-2776
(608) 267-1030 Fax

Last updated July 12, 2016