

Indians
Filing Requirements

A question has arisen as to whether a New York personal income tax return is required to be filed by Indians who are exempt from New York State personal income tax because they live and work on a reservation.

Section 145.2 of the New York State Regulations provides that every resident individual required to file a federal income tax return or having New York adjusted gross income in excess of certain income levels must file a New York State income tax return.

Although the income earned on the reservation by these individuals is generally exempt from New York State personal income tax, their income in many cases is not exempt from federal income taxes. Since they are required to file federal returns, they would be required to file New York State returns even though they are not subject to tax.

To eliminate this added burden of filing requirements, it is the Department of Taxation and Finance's policy to exempt Indians from the above filing requirements in cases where they have no income subject to New York State taxes.

It is possible that these individuals could receive a computer generated letter requesting that a New York state return be filed. If the qualifying Indians receive a letter, it should be returned with a statement declaring their nontaxable status.

This memorandum does not apply to cases where an Indian lives or works off the reservation. Such Indians are subject to the New York State personal income tax and to the New York State filing requirements.

This memorandum is effective immediately for returns due on or after April 15, 1984.