

Sales Tax Treatment of Sales Made

On Indian Reservations

TSB-M-82(19)S, dated August 20, 1982, set forth the policy of the Department of Taxation and Finance with respect to the taxability of sales made to Indians living on qualified reservations, and this memorandum deals with the tax treatment of sales actually made on a qualified reservation.

Sales on Indian reservations may be made by individual Indians, by Indian Nations or Tribes, or by vendors other than Indians. The nature of the item sold, the status of the seller, or the status of the purchaser can affect the taxability of the transaction.

Sales by Individual Indians

Indians who are operating as vendors must meet the same requirements as other vendors, despite the fact they are selling on a qualified reservation. They must register as vendors, collect tax where due, and keep records of both taxable and exempt sales. Records should include exemption documents where applicable, and other substantiation of exempt sales where no exemption document applies.

An Indian vendor who takes delivery of tangible personal property on a qualified reservation with the intention of reselling such tangible personal property, must issue the appropriate exemption document when making purchases tax free. For instance, he may not issue form TP-156.9 (Certificate of Sales Tax Exemption for Sales on Reservations to Resident Indians) to make purchases for resale; he must use form ST-120 (Resale Certificate).

Indian vendors making sales to other Indians living on a qualified reservation, or to exempt Indian Nations or Tribes, must still collect sales tax on the receipts from all sales that would normally be taxable, unless properly completed exemption documents covering these sales are on file.

Sales by Indian Nations or Tribes

Indian Nations or Tribes which have been granted exempt organization status under section 1116(a)(6) of the Tax Law may make sales that are ordinarily taxable without collecting sales tax only when the sales are not made through a shop or store.

Sales of tangible personal property made through a shop or store or sales of food or drink in a restaurant, tavern, or similar establishment, would be handled the same as any other vendors sales; vendor registration and other requirements would apply to the Nation or Tribe making the sales.

### Sales by Other Vendors

Any vendor maintaining a place of business on a qualified Indian reservation is under the same obligation to collect and remit taxes as he would be if he were maintaining a place of business elsewhere. Exempt sales must be verifiable, whether delivery occurs on or off the qualified reservation.

### Exempt Sales

The receipts from sales of certain tangible personal properties and services are exempt from sales tax under section 1115 of the Tax Law. Items such as food, medicine, and newspapers, for example, may be purchased tax free and without presentation of an exemption document to the vendor. This is true regardless of the status of the purchaser.

In addition, Indians\* making sales of Indian artifacts on a qualified reservation will not be required to collect tax on sales of such artifacts and no exemption document will be necessary to justify noncollection of tax. However, sales by an Indian of Indian artifacts off the qualified reservation and sales of Indian artifacts by any other vendor, whether on or off the qualified reservation, will be subject to tax unless the vendor receives an appropriate exemption document from the purchaser.

\*The term Indian in this instance is limited to members of the nine Tribes and Nations granted exemption under section 1116(a)(6) who live on one of the nine qualified reservations within New York State (see TSB-M-82(19)S).