

Tribes and tribal members/citizens Q&A

Starting a Business

When does a tribal member/citizen owned business need to apply for a business license or register with the Department of Revenue?

Tribal members/citizens must obtain a state license with the Department of Revenue if they are conducting business outside of their Indian country. Outside of Indian Country the tribal member is subject to state regulations, except for treaty activities. They must register with the Department to obtain a UBI number if they are making sales of non-Indian goods to non-Indians, for which they must collect and remit sales tax. They also must register with the Department if they want to obtain a reseller permit.

Registration is different from licensing. Licensing is about regulation. Registering a business will place your business information on the Business Lookup data base but will not subject the business to state jurisdiction or taxes. Registration only means your business will be found on the Department website as a registered business.

Tribal members/citizens are not required to obtain a business license with the state or local government in order to do business in their Indian country. The one exception to this is the requirement to obtain liquor licenses from the Liquor and Cannabis Board for businesses selling alcoholic beverages.

See our webpage on how to register a business.

A tribal business located on its tribe's reservation does not need to register with the state to obtain a reseller permit.

Treaty Activities

Do tribes or tribal members/citizens owe B&O tax or fish tax on gross income directly derived from treaty-fishing rights?

No. The gross income directly derived from treaty fishing rights-related activity is not subject to state tax.

This exclusion from tax is limited to those businesses wholly owned and operated by Indians or Indian tribes who have treaty fishing rights. "Wholly owned and operated" includes entities that meet the qualifications under 26 U.S.C. 7873, which requires that:

1. Such entity is engaged in a fishing rights-related activity of such tribe;
2. All of the equity interests in the entity are owned by qualified tribes, members/citizens of such tribes, or their spouses;
3. Except as provided in the code of federal regulations, in the case of an entity which engages to any extent in any substantial processing or transporting of fish, ninety percent or more of the annual gross receipts of the entity is derived from fishing rights-related activities of one or more qualified Indian tribes each of which owns at least ten percent of the equity interests in the entity; and
4. Substantially all of the management functions of the entity are performed by members/citizens of qualified Indian tribes.

Do tribes or tribal members/citizens owe retail sales tax or use tax on purchases of equipment and retail services for use in conducting treaty fishing?

No. The retail sales tax and use tax do not apply to the purchase of services or tangible personal property for use in the treaty fishery, regardless of where delivery of the item or performance of the service occurs. Gear, such as boats, motors, nets, and clothing, purchased or used by Indians in the treaty fishery is not subject to sales or use tax. Likewise, retail services in respect to property used in the treaty fishery, such as boat or engine repair, are not subject to retail sales tax.

Tribes or tribal member/citizen should provide the seller with a properly executed Tribal Fishing, Hunting, and Gathering form.

Do tribes or tribal members/citizens owe fish tax on non-treaty fish?

Yes. Tribes or Tribal members that are the first commercial possessors of non-treaty enhanced food fish that are landed outside of their Indian country owe fish tax on these fish. Generally, this means if Tribes or Tribal members are listed as the buyer on a Department of Fish and Wildlife Commercial Fish Ticket (a non-treaty fish ticket), the Tribes or Tribal members would owe fish tax on the fish listed on the ticket, if the fish is landed outside of their Indian Country.

Tax Exempt Purchases

When a tribe or tribal member/citizen purchases a vehicle off the reservation what do they need to do so they don't have to pay sales tax?

Vehicles purchased by enrolled Tribal members/citizens are exempt from sales tax provided the vehicle is delivered to the reservation of the tribe in which the member is enrolled. The Tribal member/citizen is not required to live on the reservation, but delivery must occur on their reservation.

The buyer and seller must complete the Declaration for a Dealer Selling a Motor Vehicle to Tribes at the time of sale. If a declaration is not completed and signed by both the buyer and the seller, the seller will be unable to document delivery and retail sales tax would be due on the sale.

If a tribal member/citizen has their car repaired at a repair facility located outside Indian Country, but arranges for the repaired car to be delivered to them inside their Indian Country, is sales tax due?

Under RCW 82.32.730(1)(b), sales of retail services such as automobile repair are sourced to the location where receipt by the purchaser occurs. Therefore, if a tribal member/citizen requests delivery of their repaired automobile inside their Indian Country, and the repair facility delivers the automobile in accordance with the instructions, no retail sales tax is due on the sale, regardless of where the repair services are actually performed.

Internet sales to tribes and tribal members/citizens

If a tribal member/citizen orders something over the internet and has it delivered to their home on the reservation should they be paying state sales tax?

No, you should only pay any applicable tribal tax. If you are charged sales tax, keep your receipt and you can apply for a refund.

Syrup Tax

The tax is imposed on sales of soft drink syrup in Washington. The tax is collected by the seller when the syrup is sold in the state, but successive sales of the syrup are exempt from the tax. This tax is not due on sales of syrup to or by tribes, tribal entities, or tribal members/citizens in their Indian country.

Both the seller (tribal or non-tribal) and the tribal buyer are exempt from payment of the tax on syrup sales in the tribe's Indian country. There is no obligation to collect the tax on sales of soft drink syrup to or by tribes, tribal

entities, or tribal members in the tribe's Indian country. The responsibility for paying the tax does not shift from the tribal buyer to the non-tribal seller when the sale is made in the tribe's Indian country.

Questions?

Contact Daniel Knudsen, the Department's Tribal Liaison, at 360-534-1586.

Resources

- Indian Tax Guide
- Rule 192
- State information about tribes (GOIA)



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