

|                           |
|---------------------------|
| Approved by:<br><br>_____ |
| Date:<br><br>_____        |

## **Tax Department Administrative Rule 2006-4**

**Approved:** May 8, 2006  
**Revised:** April 18, 2011

### **RETAIL SALES TAX - NONPROFIT ENTITIES.**

**TDAR-06-4.** This rule explains the appropriate retail sales tax treatment of sales to nonprofit entities and sales by nonprofit entities which are transacted on the Tribal and trust lands of the Little River Band of Ottawa Indians.

### **BACKGROUND**

Article VI of the Tax and Revenue Administration Ordinance imposes a retail sales tax, at the rate of 6% of gross receipts, for the privilege of engaging in the business of making sales at retail within Tribal and trust lands. A sale at retail is defined as the transfer of ownership of tangible personal property.

The Tax and Revenue Administration Ordinance, as amended, allows a deduction from retail sales tax for, “sales at retail” where transaction takes place at Tribal pow wows, qualified fundraising events or other cultural or charitable activities defined by regulation. In addition, there is a deduction from retail sales tax for, “sales at retail which would be deductible from gross receipts under the State General Sales Tax Act, as amended, provided that person making the purchase provides the taxpayer with the form used by State taxpayers claiming exemption under one of the provisions in the General Sales Tax Act” (6.04 o).

### **DISCUSSION**

Michigan’s General Sales Tax Act and Use Tax Act were amended in 1994 to alter the qualifications of sales and use tax exemptions provided to certain nonprofit organizations other than schools, churches, nonprofit hospitals and governmental agencies. Currently, the exemption is limited to organizations that have federal tax-exempt status under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code. In addition, the amendment to the General Sales Tax Act enacted a new provision for certain qualified nonprofit organizations that gives an exclusion from gross proceeds for sales made by nonprofit entities. The Little River Band of Ottawa Indians Tax Department will allow these exemptions provided procedures outlined in Michigan Treasury’s Revenue Administration Bulletin 1995-3 are followed. These procedures are summarized below.

### **SALES TO NONPROFIT ORGANIZATIONS**

An exemption is allowed for sales to nonprofit organizations that are exempt from federal income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code and for organizations previously certified as exempt by the Michigan Department of Treasury.

## **Tax Department Administrative Rule 2006-4**

To be exempt, the purchase of tangible personal property must be used or consumed primarily in carrying out the purposes of the institution or agency, as stated in the bylaws or articles of incorporation of the exempt entity. Purchases of property used in fund-raising activities are taxable. Sales, the cost of which will be paid or defrayed by reimbursement to the nonprofit entity from members or others, are not exempt. In all instances, to be exempt the consideration for the purchase must move directly from the funds of the exempt nonprofit organization.

Sales of tangible personal property to qualified nonprofit organizations for use in qualified activities (not for resale) are exempt from tax provided:

1. Organization previously certified as exempt present the “exemption ruling letter”, reissued after June 12, 1994 by the Michigan Department of Treasury. These organizations should present to the vendor a copy of their “exemption ruling letter.”
- or**
2. Organizations not previously certified as exempt must give the vendor the following information:
  - A. A Certificate of Exemption. This form may indicate in the “valid reason” section, “For use or consumption in connection with the operation of a nonprofit organization exempt from Federal income tax under section 501(c)(3) or 501(c)(4) or the IRCC”;
  - and**
  - B. A copy of the Federal exemption letter indicating 501(c)(3) or 501(c)(4) exempt status received from the Internal Revenue Service.

## **SALES BY NONPROFIT ORGANIZATIONS**

Michigan General Sales Tax Act, as amended, exempts from sales tax retail sales made by certain organizations if aggregate sales at retail for the calendar year are less than \$5,000. Sales at retail are defined as transfers of ownership of tangible personal property. The following organizations qualify if they are nonprofit:

- schools
- churches
- hospitals
- parent cooperative preschools
- nonprofit entity with an exemption ruling letter from the Michigan Department of Treasury;
- Internal Revenue Code Section 501(c)(3) federal income tax exempt entity;
- Internal Revenue Code Section 501(c)(4) federal income tax exempt entity.

**Tax Department Administrative Rule 2006-4**

Nonprofit organizations making sales at retail are still required to register and obtain a sales tax license even if their total sales for the calendar year are less than \$5,000 and they have no tax liability.

**IMPLICATION FOR TRIBAL TAX**

The Tax and Revenue Administration Ordinance, as amended, includes an exemption for sales to nonprofit entities for Lodging and Occupancy Tax (4.03(d)) and Food and Beverage Tax (5.03(f)). Exemption from Retail Sales Tax can be taken, by qualifying entities, on Line 7o. of the Retail Sales Tax return with required documentation.

A Tribal Business Tax License is required of all sellers (including nonprofit entities) making retail sales on Tribal and trust lands of the Little River Band of Ottawa Indians. If a nonprofit entity seller is wholly owned by the Tribe, Tribal members or the Tribe and Tribal members, Tribal taxes will apply. If a nonprofit entity seller is a non-member, Michigan tax applies per MCL 205.54o; MSA 7.524(15).

**FOR ADDITIONAL INFORMATION:**

Questions can be addressed by calling (231) 398-6874, or writing:  
Little River Band of Ottawa Indians  
Tax Department  
375 River Street  
Manistee, MI 49660  
Email: [bczarnecki@lrboi.com](mailto:bczarnecki@lrboi.com)

All pertinent facts must accompany any request for a ruling.