

Approved by:

Date:

Tax Department Administrative Rule 2009-3

Date: December 21, 2009

TAX BASE FOR LODGING & OCCUPANCY TAX - GRATUITIES

TDAR-09-1. This rule offers guidelines for sellers regarding the application of the Lodging and Occupancy Tax to gratuities that are charged as tips on a customer's credit card.

BACKGROUND

The Tax and Revenue Administration Ordinance imposes a lodging and occupancy tax for the privilege of use and occupancy of a room in a hotel or other lodging facilities, including designated RV/camp sites, within Tribal and trust lands. The tax is levied upon every person for the use and occupancy of any room(s) or lodging facilities, and any occupancy-related services at a rate of six percent (6%) of the gross occupancy receipts for such services.

DISCUSSION

The Tax and Revenue Administration Ordinance defines "gross occupancy receipts" in Article IV 4.01(c) as, ". . . *the total amount of money or the value of other consideration charged to any person for lodging at any hotel room, lodging facility and other accommodations, . . .*" Section 4.02(a) further states, ". . . *a tax is hereby levied upon every person for the use and occupancy of any room(s) or lodging facilities, and any occupancy-related services at a rate of six per cent (6%) of the gross occupancy receipts for such services.*"

IMPLICATION FOR TRIBAL TAX

The Lodging and Occupancy Tax Ordinance does not include a deduction for tips and gratuities. However, gross occupancy receipts are defined as the amount charged for the accommodations. Tips and gratuities that are voluntarily added by the customer, separately identified, and distributed to the employees as tips should not be included in the tax base for the lodging and occupancy tax.

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

All pertinent facts must accompany any request for a ruling.

