



Little River Band of Ottawa Indians
Tax Department
375 River St
Manistee MI 49660
(231) 723 - 8288

Interpretation Letter 2006-3

January 17, 2006

Dear _____ :

You represent the _____, a Tribal Enterprise of the Little River Band of Ottawa Indians, which is located on Tribal and trust land. We acknowledge your request for a ruling as to the retail sales tax liability of promoters and sellers who rent or occupy space at your facility for the purpose of transacting sales to the public.

Under the terms of the tax agreement, III(B)3, the Tribe agrees to collect its sales tax from all Tribal, Tribal member, and Tribal Entity retailers engaging in taxable sales within the Tribal and trust lands. Section III(C)1 says the State will impose sales tax on all non-Tribal retailers, non-Tribal member retailers, and non-Tribal Entity retailers within the Agreement Area including Tribal and Trust Lands on all sales including those to the Tribe, Tribal members, or Tribal Entities unless a valid exemption certificate is presented at time of sale.

When a promoter is subletting space to individual sellers, we will rely on Michigan Administrative Code Rule 205.78 (below) to determine who is responsible for paying the tax in the event that a non-member seller does not have a Michigan Sales Tax License.

R 205.78 Farmers, market masters, and other marketers.

Rule 28. (1) Farmers, market masters, and other persons who sell at retail tangible personal property, other than food for home consumption or use, shall secure a license and pay the tax on those sales.

(2) Sales of the property specified in subrule (1) for resale to persons possessing a sales tax license are not taxable.

(3) Where a person selling other than food at retail rents or occupies space in a general market or other place operated for the purpose of transacting sales, that person shall secure a sales tax license, and shall pay the tax on the sales made by that person. If the seller does not have a sales tax license, the market master, as the principal, is responsible for paying the tax on the sales made by that person.

History: 1944 AC; 1954 AC; 1954 ACS 88, Eff. Aug. 6, 1976; 1979 AC.

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Pursuant to R 205-78, a market master or promoter of retail sales activities has the following responsibilities:

1. Such person must determine that each lessee (seller) has a proper Michigan Sales Tax License or Tribal Business Tax License and shall maintain a record of such license number of each lessee (seller).
2. If the lessee (seller) does not have a proper Michigan Sales Tax License or Tribal Business Tax License, and therefore does not remit sales tax on sales made by such seller (lessee), the licensed market master or promoter or other lessor of space for making retail sales shall be responsible for the payment of tax on such sales.

Sincerely,

Barbara Czarnecki
Tax Officer
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