



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

Interpretation Letter 2007-2  
(Replaces 2006-3)

November 7, 2007

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, 111(8)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 Famers, market masters, and other marketers.

Rule 28. (1) Famers, 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 if the promoter is not the Tribe, a Tribal Member or Tribal entity.
3. If the Tribe, a Tribal member or a Tribal entity is promoting the event, the Tribe or Tribal promoter shall provide each unlicensed non-member seller with a Michigan Concessionaire's Sales Tax Return and Payment (Form 2271) and instructions. (See attached copy.) The complete name and address of each unlicensed seller must be reported to the Tax Office within 7 days of the event. Information on unlicensed non-member sellers will be forward to the Michigan Department of Treasury upon request.

Sincerely,

Barbara Czarnecki  
Tax Officer  
Little River Band of Ottawa Indians  
Ph: 231-723-8288 ext. 6874  
Email: bczarnecki@lrboi.com

# Concessionaire's Sales Tax Return and Payment

Issued under P.A. 167 of 1933 and 122 of 1941 as amended. Filing is mandatory.

|                       |  |                            |
|-----------------------|--|----------------------------|
| Seller's Name         | Telephone Number                             | Social Security Number     |
| Street Address        | Sales Tax License No. (if applicable)        | Federal Employer ID Number |
| City, State, ZIP Code | Temporary Liquor License No. (if applicable) |                            |

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|       |                 |               |
|-------|-----------------|---------------|
| Event | Location (City) | Date of Event |
|-------|-----------------|---------------|

As a vendor operating in Michigan, you are responsible for collecting and paying Michigan sales, use and withholding taxes. You must remit sales tax on all sales of tangible personal property from an event at a Michigan location to an end user ("retail sales") at the rate of 6 percent. You must also remit use tax on all goods taken from inventory or purchased exempt from Michigan sales tax and used in your business unless you paid sales tax of at least 6 percent to another state. For example, prizes given for games of skill or chance.

You must also remit income tax withholding for wages paid to anyone working for you while you are in Michigan, regardless of that person's state of residence. For example, either hiring local people when you are in Michigan or bringing your own employees with you.

Complete each line below as instructed. If you have questions, please contact the Sales, Use and Withholding Tax Customer Contact Division at (517) 636-4730.

1. Gross Sales. Enter the total amount of sales of tangible personal property including cash and charge sales 1. \_\_\_\_\_
2. Enter your purchases for resale on which you paid tax of 6% to your supplier ..... 2. \_\_\_\_\_
3. Subtract line 2 from line 1 ..... 3. \_\_\_\_\_
4. If you include tax in gross sales (line 1), divide line 3 by 17.6667 ..... 4. \_\_\_\_\_
5. Taxable Sales. Subtract line 4 from line 3 ..... 5. \_\_\_\_\_
6. Sales Tax Due. Multiply line 5 by 6% (.06) ..... 6. \_\_\_\_\_
7. Use Tax Due. Enter 6% (.06) of all purchases made for your own use or consumption on which you did not previously pay 6% sales tax ..... 7. \_\_\_\_\_
8. Enter all wages paid to employees ..... 8. \_\_\_\_\_
9. Income Tax Withholding Due. Enter total withholding due ..... 9. \_\_\_\_\_
10. Penalty and Interest Due. Enter amounts due for late payment of tax ..... 10. \_\_\_\_\_
11. Pay this Amount. Add lines 6, 7, 9 and 10 ..... 11. \_\_\_\_\_

## CERTIFICATION

I declare, under penalty of perjury, that the information in this return is true and complete.

|                    |      |
|--------------------|------|
| Seller's Signature | Date |
|--------------------|------|

This return is due upon demand. If demand is not made, 3 business days after event. If this form and payment are not mailed to the Michigan Department of Treasury by the due date, an estimated tax assessment may be issued against you.

Make check payable to: STATE OF MICHIGAN.

Mail To: Michigan Department of Treasury  
Customer Contact - SUW  
P.O. Box 30427  
Lansing, MI 48922

Return the white copy with payment.  
Keep the yellow copy for your files.

## Sales Tax Collection

Retailers are required to remit a 6% sales tax on their taxable retail sales to the State of Michigan. Effective January 1, 2006, a retailer must calculate the amount of sales tax to collect by using the following rounding formula.

To determine the amount of tax to remit, compute the tax to the third decimal place and round up to a whole cent when the third decimal place is greater than four, or down to a whole cent when the third decimal point is four or less.

## How to Compute Withholding

To calculate tax amounts to withhold, employers may use a direct percentage computation (example shown below) or use the Michigan Income Tax Withholding Table. This table is found in Form 446, *Michigan Income Tax Withholding Guide*. Additional information regarding sales, use and withholding taxes, as well as Form 446 and the income tax withholding tables, is available by visiting the Michigan Treasury Web site [www.michigan.gov/businessstaxes](http://www.michigan.gov/businessstaxes).

| <u>Payroll Period</u> | <u>2007<br/>Allowance per Exemption</u> | <u>2006<br/>Allowance per Exemption</u> |
|-----------------------|---|---|
| Per Day               | 9.32                                    | \$9.04                                  |
| Weekly                | 65.38                                   | \$63.46                                 |

## Withholding Formula

[Compensation -(allowance per exemption x number of exemptions)] x Calendar Year's Withholding Tax Rate.

Example: An employee with 3 exemptions earns \$600/week in 2007 -the 2007 withholding tax rate is 3.9%.

The Direct Percentage Calculation is:

$[\$600 - (\$65.38 \times 3)] \times 3.9\% = \text{Amount to withhold}$

$(\$600 - \$196.14) \times .039 = \$15.75$

## How to Compute Penalty and Interest

If a return is not filed or tax is not paid within three days of your event, you must include penalty and interest with your payment. Penalty is 5% of the tax due. Penalty increases by an additional 5% per month or fraction thereof, after the second month, to a maximum of 25%. Interest is charged daily using the average prime rate, plus 1 percent.

You may refer to our Web site for current interest rate information, or help in calculating late payment fees.