



Little River Band of Ottawa Indians
Tax Department
375 River St
Manistee MI 49660
(231) 398-6874

Approved by:

Date:

Interpretation Letter 2013-1

January 3, 2013

Dear _____ :

You represent the _____, a Tribal Enterprise of the Little River Band of Ottawa Indians, which is located on Tribal and trust land. We have received your request for clarification of the filing period for your Tribal tax returns. You have also inquired about the assessment of penalty and interest for late filing/payment of your returns.

The _____ was changed from quarterly to monthly filing effective 7/1/2009. The Tax and Revenue Administration Ordinance, at § 4.05(c), 5.04(c), 6.06(c), and 7.04(c) gives the Tax Department authority to adopt Regulations, after notice and comment, to change the return/payment schedule for sellers licensed under the Ordinance. The Tax Department recommended this change, along with several other technical changes, in the 2008 Tax Department Annual Report.

The proposed change was discussed with _____ personnel prior to the regulation change. A meeting was held with _____ and _____ on June 1, 2009, to reconcile Tribal tax return errors. It was agreed at that meeting that the tax returns would be more accurate and easier to prepare if they were filed on a monthly basis rather than having to compile them for three months. In addition, a meeting/training session was held with _____ staff on July 6, 2009 to explain the proposed changes and review Tax Ordinance and Tax Agreement issues. There were no objections to the proposed Tax Ordinance and Regulation changes at that time.

The Tax Ordinance, at § 11.07, addresses failure or refusal to file a return or pay a tax. You questioned why some late returns in the past did not receive any penalty and interest. My records show that penalty and interest have been assessed on three occasions since the 2006 implementation of the Tax Ordinance. These include; Admissions Tax due June 2008 (quarter) due 7/15/08 and paid 10/22/08, Jan 2011(monthly) Food & Beverage, Lodging & Occupancy, Retail Sales and Admissions Tax due 2/20/11 and paid 3/21/11, and August 2012 (monthly) Food & Beverage, Lodging & Occupancy, Retail Sales and Admissions Tax due 9/20/12 and paid 10/4/12.

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Please note that in each instance when penalty and interest was assessed, the tax return and payment was not received until after the end of the month that it was due. Also, there was no phone or email from the taxpayer to notify why the return was late. The Tax Ordinance, at § 11.07(c), allows the Tax Officer to waive the penalty if the failure was shown to be due to reasonable cause and not to willful neglect. Additional time has been allowed in the past when the Tax Officer was notified why the returns would be late.

The tax return information from all Tribal entities is consolidated by the Tax Officer to file the State/Tribe tax sharing return. If the Tribal entities do not file their return on time, the Tax Officer may be unable to prepare and file the consolidated return in a timely manner. Past practice has been to allow a few extra days to allow for US Mail or interoffice mail schedules. However, any return not paid within the calendar month that it is due will incur penalty and interest unless an arrangement has been made to explain reasonable cause.

Please let me know if you have any additional questions regarding this issue.

Sincerely,

Barbara Czarnecki
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Little River Band of Ottawa Indians
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Cc: Larry Romanelli, Tribal Ogema