

**Budget and Appropriations Regulations**  
**TAX REGULATIONS**  
**Regulation #R100-AC-08**

**Chapter 8. Motor Fuel Products**

**Section 1. Authority; Purpose**

1-1. *Authority.* In accordance with resolution #03-0205-33 which ratified the Tax Agreement between the Tribe and the State of Michigan, and resolution #04-0324-137 which authorizes implementation of the Tax Agreement,

1-2. *Purpose.* This policy is intended to provide a framework for ensuring that Tribal motor fuel products purchase and sale transactions are understood, and accompanying procedures are uniformly applied. Guidelines are placed to support purchasing activities of the Tribe and to create a managed purchasing system.

**Section 2. Definitions**

2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word shall is always mandatory and not merely advisory.

**Section 3. Motor fuel products**

3-1. *Licensing of Retailers.* Any Retailer engaged in the Sale at Retail of motor fuel products from a location on Tribal and Trust Lands shall obtain a license as may be required by Tribal law.

3-2. *Authorizing Retailers.* Only the Retailers authorized by Tribal Council resolution may purchase tax exempt motor fuel products under the Tribe's tax exempt quota. Licensed Retailers shall be limited to that portion of the tax exempt quota as may be designated by the Tribal Council.

3-3. *Conditions Applicable to Retailers Licensed to Sell Motor fuel products.* Any Retailer licensed to engage in the Sale at Retail of motor fuel products shall, as a condition of obtaining that license and/or registration, be required to agree to comply with the following requirements:

- a. A Licensed Retailer must purchase all motor fuel products from a single State-licensed wholesaler approved by the Tribe;
- b. All motor fuel products offered for sale by a Licensed Retailer in excess of the quota shall be purchased with State motor fuel taxes prepaid;
- c. A licensed Retailer must agree to maintain such books and records as would be required under State law for Retailers licensed by the State to engage in the Sale at Retail of motor fuel products;
- d. A Licensed Retailer authorized to either: (1) purchase and sell tax free quota motor fuel products; or (2) sell motor fuel products to Tribal Members without collecting Michigan motor fuel products taxes under the Refund System, shall be required to maintain records of its purchases and, where applicable, sales of tax free motor fuel products as required under Section X(A)(4) and X(B)(4) of the Tax Agreement; and
- e. A Licensed Retailer shall permit representatives of the State access to the Retailers premises for the purpose of conducting inspections, including unannounced inspections, of facilities where motor fuel products are sold and stored, as well as any vehicles used to transport motor fuel products.

3-4. *Purchases Subject to Michigan Motor Fuel Tax.* Unless exempted by the Tax Ordinance and these Regulations, all purchases of motor fuel products by Tribal Members within the Reservation shall be subject to the imposition and collection of Michigan motor fuel products tax, which shall be added to the price. Retailers operating within Tribal and Trust Lands shall remit tax proceeds and provide information as required under the provisions of the Motor Fuel Tax Act, MCL Section 207.1008 et seq., as it may be amended from time to time.

3-5. *Location at Which Exempt Purchases May be Made.*

a. Motor fuel products may be purchased by Tribal Members without payment of Michigan motor fuel products tax at the following retail outlet within the Reservation:

1. Northern Pass Marathon (3<sup>rd</sup> party designated retailer) through close of business May 23, 2008.

2. Little River Trading Post (Tribal-owned retailer) on and after May 24, 2008.

b. Except as provided in sub-section (a), Tribal Members may not purchase tax exempt motor fuel products at any other retail establishment within the Tribe's Reservation.

3-6. *Registration Requirement.* Tribal members must register with the tax office, on a form prescribed by the tax department, before purchasing tax-exempt motor fuel. The registration form shall specify the license plate number and description of the vehicle that tax-exempt motor fuel will be purchased for. The vehicle must be owned by the Tribal member or the Tribal member's family.

3-7. *Limits on Purchases of Exempt Motor fuel products by Tribal Members.*

a. Tribal Members who have registered with the tax office per sub-section 3-6 may purchase motor fuel products from the designated third-party retailer listed in 3-5(a) without payment of motor fuel tax, provided the purchase is solely for personal use and not for resale.

b. Monthly purchase limits will be adjusted quarterly based on remaining quota gallons available. Adjusted purchase limits will be posted on Tribal member purchase log at Northern Pass Marathon on the first day of each quarter. An additional adjustment will be made and posted on December 1<sup>st</sup> based on quota gallons remaining for the calendar year.

c. Tribal Members are responsible for staying within the monthly purchase limit posted on the Tribal member purchase log at Northern Pass Marathon. Tribal members must keep track of their own tax-exempt purchases.

d. Tribal Members shall be prohibited from purchasing more than the posted number of gallons of tax-exempt gasoline or diesel fuel during any calendar month. The designated retailer shall include the full amount of Michigan motor fuel tax in the price of all motor fuel products sold to Tribal Members in excess of the posted gallon limit during any calendar month.

e. All sales of motor fuel products to Tribal Members in excess of the total annual ceiling for tax exempt motor fuel product sales agreed to by the Tribe and the State of Michigan under the Tax Agreement shall include the full amount of the Michigan motor fuel tax.

f. The Tax Department shall audit the records of all Retailers authorized to sell tax exempt motor fuel products to enforce the limits prescribed in these Regulations. Tribal Members who purchase tax exempt gallons above the single transaction and monthly limits established in these regulations will be responsible for paying the motor fuel tax on excess purchases. Penalty will be assessed on excess purchases.

3-8. *Civil Penalties; Remedies.*

- a. Any person who violates Section 3-7(d) shall be guilty of a civil infraction and shall be subject to a civil penalty of Twenty Dollars (\$20.00). Each transaction by a person which violates Section 3-7(d) shall be treated as a separate offense.
- b. Any person who violates Section 3-7(a) by purchasing tax-exempt motor fuel products for, or selling tax-exempt motor fuel to, any person not entitled to purchase the same under the terms of the Tax Agreement shall be guilty of a civil infraction and shall be subject to a civil penalty of One Hundred Dollars (\$100.00). Each transaction by a person which violates Section 3-7(c) shall be treated as a separate offense.
- c. Any Retailer who knowingly violates Section 3-7(c) shall be guilty of a civil infraction and shall be subject to a civil penalty of One Hundred Dollars (\$100.00). Each transaction shall be treated as a separate offense.
- d. The remedies in this section are not intended to be exclusive, but shall be in addition to and independent of:
  1. Any applicable contractual remedy;
  2. Seizure of motor fuel products possessed in violation of the Tax Agreement or these regulations;
  3. Suspension of a Tribal Member's privilege to purchase tax-exempt motor fuel products for up to 1 year.
  4. Any disciplinary action taken against a violator as an employee;
  5. Wage garnishment and off-set against any funds owed by the Tribe to any Tribal member;
  6. License suspension or revocation;
  7. Prosecution or other enforcement action under federal or state law or under the provisions of other chapters of the Tribal Code or Regulations.

3-9. *Criminal Offenses; Remedies.*

- a. Any person who commits a knowing or intentional violation of Section 3-7(d) may be charged with a criminal offense punishable by a fine of up to One Thousand Dollars (\$1,000.00) or imprisonment for not more than six months, or both.
- b. Any person who violates Section 3-7(a) by selling tax-exempt motor fuel products to any person not entitled to purchase the same under the terms of the Tax Agreement may be charged with a criminal offense punishable by a fine of up to Two-thousand Five Hundred Dollars (\$2,500.00) or imprisonment for not more than six months, or both.

**Section 4. Adoption; Amendment; Repeal**

4-1. *Adoption.* This Chapter is approved by the Tribal Council on June 14, 2006, by resolution #06-0614-409 and amended by resolution #08-0507-129.

4-2. *Amendment.* This regulation may be amended by the Finance Department in accordance with the Constitution and any rules set forth governing amendment of regulation of the Little River Band of Ottawa Indians. Provided that, any amendments must be approved or adopted in the same manner as set forth in section 4-1.

4-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

4-4. *Compliance.* In regards to compliance with this regulation, substantial compliance with the spirit of this regulation rather than complete compliance is acceptable.

4-5. *Sovereign Immunity.* Nothing in this Regulation shall provide or be interpreted to provide a waiver of sovereign immunity from suit of the Tribe or any of its governmental officers and/or agents.

4-6. *Effective Date.* This Regulation shall take effect on June 29, 2006.