

Hotel Room Tax Exemption for Indians and Indian Bands

Hotel Room Tax Act

Update: Budget 2006

Effective February 22, 2006, the provisions for exempt accommodation are expanded to include shorter stays and higher daily/weekly rate thresholds.

The *Indian Act* (Canada) exempts Indians and Indian Bands from provincial sales taxes where the sale takes place on reserve land. In recognition of this exemption, the provincial Budget Speech of March 22, 1994, announced that effective March 23, 1994, Indians and Indian Bands are exempt from tax on purchases of accommodation that are provided wholly on reserve land.

This bulletin outlines the exemption from hotel room tax that is available to Indians and Indian Bands and the procedures for providing the exemption. The *Hotel Room Tax Act* imposes tax on purchases of accommodation which take place in British Columbia.

For information on the exemptions that are available to Indians and Indian Bands from the social service tax and motor fuel taxes, please refer to [Bulletin SST 046](#), *Exemption for Indians and Indian Bands*, [Bulletin MFT 002](#), *Fuel Retail Dealers Operating on Reserve Land*, and [Bulletin MFT 006](#), *Fuel Retail Dealers Located Off Reserve - Tax-Exempt Sales of Fuel to Native Indians*. These bulletins are available from all Consumer Taxation Branch and Service BC-Government Agent offices. For information on the exemption from provincial tobacco taxes, please contact your nearest Consumer Taxation Branch office.

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *Hotel Room Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

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DEFINITIONS

Accommodation

The provision of lodging in hotels and motels, and similar establishments, but does not include lodging let to the same person for a continuous period of more than one month, or lodging exempted by the Lieutenant Governor in Council. See [Bulletin HRT 006](#), *Your Responsibilities as a Registered Operator*, for information on lodging that is not subject to tax.

Indian

A person who qualifies as an "Indian" under the *Indian Act* (Canada) and who is in possession of a *Certificate of Indian Status* card issued by the federal government. This does not include Metis peoples, Inuit, or Indians from the United States because such people do not meet the definition of an Indian under the federal legislation.

Reserve Land

Land that qualifies as reserve land under the *Indian Act* (Canada), including land classified under that Act as designated reserve land.

ELIGIBILITY CRITERIA

Qualifying for Exemption

To qualify for exemption, all of the following conditions must be met.

- The accommodation purchased must be for the personal use of the Indian or for the use of the Indian Band.
- The purchaser must be either an Indian or an Indian Band. Indian purchasers must be in

possession of a *Certificate of Indian Status* card issued by Indian and Northern Affairs, Canada. Persons purchasing on behalf of an Indian Band must have written authorization from the band to act for it, showing the band name and number and signed by the appropriate band official.

- The accommodation must be located on reserve land. If the purchase occurs on designated land, the seller must be in possession of a letter from the Consumer Taxation Branch authorizing exempt sales from that location. Accommodation operators located on designated land may obtain such authorization by contacting their local Consumer Taxation Branch office.

Corporations or cooperatives with Indian shareholders, tribal councils, and band-empowered entities do not qualify as Indians under the *Indian Act* (Canada). Purchases by such organizations are therefore subject to the tax even if the accommodation is provided on a reserve location.

ACCOMMODATION WHICH DOES NOT MEET THE CRITERIA

Taxable Accommodation

All sales of accommodation to Indians or Indian Bands that do not meet the criteria outlined above are subject to tax.

The seller is required to collect and remit tax on all sales which do not qualify for exemption. If the seller fails to do so, the seller may be held liable for an amount equal to the tax which should have been collected.

PROCEDURES FOR OPERATORS MAKING EXEMPT SALES

Certificate of Indian Status Cards

Indian and Northern Affairs, Canada issues a *Certificate of Indian Status* card to each person qualifying as an Indian under the *Indian Act* (Canada). Only persons who hold such a card are eligible to purchase accommodation without payment of tax.

Two types of cards are issued, one for Indians who are members of a band and one for Indians who are not band members but have a registry number. Each card bears the cardholder's photograph, name, signature, and either a band name and number or a registry number.

Substantiating Exempt Sales

When presented with a *Certificate of Indian Status* card by a person requesting exemption as an Indian, the operator must ensure the purchaser meets the criteria for exemption. Document the transaction as follows.

- **Purchases by Individuals:** Ensure that the photograph is that of the purchaser. Record the person's name, and the band name and number or the registration number. Obtain the purchaser's signature on the sales slip, invoice, or in a log book maintained for this purpose. Ensure that this signature matches the signature on the card.
- **Purchases on Behalf of a Band:** The person requesting exemption must provide written authorization from the band to act on its behalf. Record the name of the purchaser, the band name and number, and the name of the band member who signed the authorization letter. Obtain the purchaser's signature on the sales slip, invoice, or in a log book.

Retaining Records

Sales of accommodation may be made without collection of tax provided the above procedures have been followed. Operators must retain a record of the sale to substantiate the non-collection of tax.

If the non-collection of tax cannot be substantiated as outlined above, the operator may be liable for payment of an amount equal to the tax which should have been collected.

Operators who question the identity of the card holder, and those located on designated reserve land who have not received authorization from the Consumer Taxation Branch to make exempt sales to Indians or Indian Bands, must collect tax at the time of the sale. Under these circumstances, eligible purchasers may apply to the Consumer Taxation Branch for a refund of the tax paid.

NEED MORE INFO?

This bulletin is provided for convenience and guidance.

If you have any questions, call us at 604 660-4524 in Vancouver or call toll-free at 1 877 388-4440, or e-mail your questions to CTBTaxQuestions@gov.bc.ca

Information is also on the web at www.gov.bc.ca/sbr While there, you can subscribe to our free electronic update service.

References: *Indian Act* (Canada), Sections 2 and 87; *Hotel Room Tax Act*, Sections 1 and 2