



Special Notice

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711

Sales to Certain Indian Tribal Governments May Be Exempt

Regulation 1616, *Federal Areas*, now recognizes a limited exemption from sales and use tax for off-reservation sales of tangible personal property to the tribal governments of certain federally-recognized Indian tribes.

This limited exemption applies to sales by retailers to tribal governments whose Indian tribes do not have reservations or that cannot meet to conduct tribal business on their Indian tribes' reservations because of a lack of buildings or essential utility services. You may qualify for this exemption if you are an Indian tribal government that meets the following qualifications or a retailer selling to an eligible Indian tribal government.

What are the qualifications for this exemption?

The exemption is limited and only applies if **all** of the following criteria are satisfied:

- The sale is made to or the purchase is made by the tribal government of an Indian tribe that is officially recognized by the United States.
- The Indian tribe does not have a reservation or the principal place where the tribe's government meets to conduct tribal business cannot be its Indian tribe's reservation because the reservation does not have a building or lacks one or more utility services, such as power or water, or lacks mail service.
- The property is purchased for use in tribal self-governance.
- The property is delivered and title to the property is transferred to the tribal government at the principal place where the tribal government meets to conduct tribal business.
- The property is used in tribal self-governance more than it is used for other purposes within the first 12 months following delivery.

Tribal Governments. If you give your vendor an exemption certificate stating the property qualifies for the exemption and it is later determined the property does not qualify, you will owe use tax on the purchase price.

All Retailers. You are relieved of the liability for sales tax if you accept in good faith, a valid exemption certificate from the purchaser that certifies the purchaser meets the criteria above and the property is delivered to the tribal business location.

Where can I get more information about the exemption and verify the principal place where an eligible tribal government meets to conduct tribal business?

We have updated our webpage dedicated to American Indian Tribal Issues at www.boe.ca.gov/sutax/indianLandSales.htm. It provides:

- Information on the exemption; and
- A list showing each tribe officially recognized by the United States that has provided information indicating that its tribal government is eligible for the exemption because the tribe does not have a reservation or its tribal government cannot meet to conduct business on its reservation because the reservation does not have a building or lacks one or more utility services or mail service, and the principal place where each of those tribes has indicated that its eligible tribal government meets to conduct tribal business.



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How does an eligible tribal government get added to the list?

If a federally-recognized Indian tribe does not have a reservation or its tribal government cannot meet to conduct business on its reservation because the reservation does not have a building or lacks one or more utility services or mail service, please email the following information to SUTD-BTC.InformationRequests@boe.ca.gov to be added to the list of eligible tribal governments described above:

- The name of your tribe
- The name, address, and telephone number of your tribal government's contact person, and
- The address of the principal place where your tribal government meets to conduct tribal business.

How should retailers document exempt sales to tribal governments?

Retailers should request that tribal governments complete and provide the BOE-146-TSG exemption certificate (available at www.boe.ca.gov/sutax/staxformsn.htm) or provide a similar exemption certificate that has all the following information:

- The name of the purchaser (tribal government).
- A description of the property being purchased.
- The address of the principal place where the tribal government meets to conduct tribal business and where the property will be delivered.
- A statement that the tribal government's Indian tribe is recognized by the federal government but does not have a reservation, or the tribal government cannot meet on its tribe's reservation to conduct tribal business because the reservation does not have a building, or lacks one or more utilities, or mail service.
- A statement that use tax will apply if the property is not used more than 50% of the time for tribal self-governance during the first 12 months following delivery and that the Indian purchaser must pay any applicable use tax directly to the BOE.

BOE-146-TSG also includes a *Statement of Delivery* which retailers may complete to document that the property was delivered to the principal place where an eligible tribal government meets to conduct tribal business.

Retailers should go to www.boe.ca.gov/sutax/tribal_gov_meeting_locations.htm to verify whether a tribal government has stated it is eligible for the exemption and whether property is being purchased for delivery at the principal place where the tribal government meets to conduct tribal business.

Where can I find more information?

Helpful resources on American Indian tribal issues, including regulations and publications, can be found at www.boe.ca.gov/sutax/indianLandSales.htm.

Who do I contact with questions?

For more information regarding this notice, please contact your local Board of Equalization office, or call our Taxpayer Information Section at 1-800-400-7115 (TTY:711). Staff is available to assist you from 8:00 a.m. to 5:00 p.m. (Pacific Time), Monday through Friday, except state holidays.