

Seattle Rule 5-129

Tribes and Tribal Members / Citizens

Seattle Rule 5-129 Tribes and Tribal Members/Citizens

(1) Introduction. This section explains the Seattle business license tax as it relates to sales to and on Tribal reservations.

(2) Definitions. As used herein:

(a) The term Indian, as used herein, means a person on the tribal rolls of an Indian Tribe. A person on the tribal rolls is also known as an enrolled member or a member or an enrolled person or an enrollee or a tribal member. The term includes only those persons who are enrolled with the tribe upon whose territory a business activity takes place and does not include Indians who are members of other tribes.

(b) The term Indian country has the same meaning as given in 18 U.S.C. 1151 and means:

(i) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights of way running through the reservation;

(ii) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(iii) All Indian allotments, the Indian titles to which have not been extinguished, including rights of way running through the same.

(c) The term Indian reservation as used herein, means all lands, notwithstanding the issuance of any patent, within the exterior boundaries of areas set aside by the United States for the use and occupancy of Indian tribes by treaty, law, or executive order and that are areas currently recognized as Indian reservations by the United States Department of the Interior. The term includes all lands within the exterior boundaries of the reservation owned by non-Indians as well as land owned by Indians and Indian tribes and it includes any land that has been designated reservation by federal act.

(d) The term Indian tribe, as used herein, means an Indian nation, tribe, band or other entity recognized as an Indian tribe by the United States Department of the Interior. The phrase federal recognized Indian tribe and the term tribe have the same meaning as Indian tribe.

(e) The following Washington tribes are the only Indian tribes currently recognized as such by the United States Department of Interior as of November 2012: Chehalis, Colville Confederated Tribes, Cowlitz, Hoh, Jamestown SKlallam, Kalispel, Lower Elwha Klallam, Lummi Nation, Makah, Muckleshoot, Nisqually, Nooksack, Port Gamble SKlallam, Puyallup, Quileute, Quinault, Samish, Sauk-Suiattle, Shoalwater Bay, Skokomish, Snoqualmie, Spokane, Squaxin Island, Stillaguamish, Suquamish, Swinomish, Tulalip, Upper Skagit, and Yakama Nation.

(f) The term Nonmember, as used herein, means a person not on the tribal rolls of the Indian tribe.

(g) The term Treaty fishery means the fishing and shellfish rights preserved in a tribes treaty, a federal executive order, or an act of Congress. It includes activities such as harvesting, processing, transporting, or selling, as well as activities such as management and enforcement.

(3) Business License Tax Certificate.

(a) Tribal members/citizens must obtain a business license tax certificate if they are engaging in business within the City of Seattle.

(4) Business License Tax.

(a) Sales of tangible personal property.

(i) With the exception of treaty fishery activity, Indians conducting business outside of Indian country and within the City of Seattle are subject to the business license tax.

(ii) If an Indian or tribe with a Business License Tax Certificate engages in a business activity within Indian country, then the activity is not subject to the business license tax.

(iii) Income derived from treaty fishing rights-related activity is not subject to the business license tax.

(iv) Income from non-member sales of tangible personal property to the tribe or to tribal members is not subject to B&O tax if the tangible personal property is delivered to the buyer in Indian country and if:

(A) The property is located in Indian country at the time of sale; or

(B) The seller has a branch office, outlet, or place of business in Indian country that is used to receive the order or distribute the property; or

(C) The sale of the property is solicited by the seller while the seller is in Indian country.

When these conditions are not met, the seller must pay B&O tax on its business activity.

Example: A tribal member purchases furniture from a store in the City of Seattle. The tribal member presents identification to the store owner and requests delivery to the reservation upon which he or she is a tribal member. In this case, business license tax is not due. However, if the tribal member takes possession of the furniture inside of Seattle, business license tax is due.

(b) Retail services.

(1) The business license tax is not imposed if the retail service, such as construction or repair services, is performed for the member or tribe in Indian country.

(2) In the case of a retail service that is performed both on and off Indian country, only the portion of the contract that relates to work done in Indian country is excluded from tax. The work done for a tribe or tribal member outside of Indian country is subject to the business license tax.

(3) Construction in Indian Country performed for nonmembers is treated like construction that occurs outside of Indian Country.

Example: A company performing road work for a tribe or tribal member both inside and outside of Indian country reports revenue generated from work conducted outside of Indian country. Any work performed within the boundaries of Indian country is exempt from the business license tax.

Example: A contractor enters into a contract with a tribe to install a sewer line that extends off reservation. Only the income attributable to the installation of the portion of the sewer line off reservation is subject to the business license tax.

(c) Professional services.

(1) Income from the performance of services (e.g. accounting, legal, or dental) in Indian country for the tribe or for tribal members is not subject to the business license tax. Services provided outside of Indian country for a tribe or tribal members are subject to the two-factor service apportionment method in accordance with SMC 5.45.081.

DIRECTOR'S CERTIFICATION

I, Glen M. Lee, Finance Director of the City of Seattle, do hereby certify

under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Finance and Administrative Services.

DATED this _____ day of July 2016.

CITY OF SEATTLE,

a Washington municipality

By: _____

Glen M. Lee, Finance Director

Department of Finance and Administrative Services

Effective date: July 14, 2016

Jul 14, 2016