

## Hotel Room Tax Exemption for Indians and Indian Bands

### *Hotel Room Tax Act*

This bulletin provides specific tax information to help outline 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 that 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 see [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 the ministry and any Service BC Centre.

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### Overview

The *Indian Act* (Canada) exempts Indians and Indian bands from provincial consumption taxes where the sale takes place on reserve land. In recognition of this exemption, the Province of British Columbia has established procedures to enable Indians and Indian bands to receive exemption from hotel room tax on purchases of accommodation that are provided wholly on reserve land.

Effective June 1, 2008, hotel room tax applies to Nisga'a Citizens and to transactions on Nisga'a lands. Nisga'a Citizens are Nisga'a individuals included in the Nisga'a Final Agreement and who pay provincial taxes. For more information, please see [Bulletin GEN 013](#), *Provincial Taxes on Nisga'a Lands*.

## **Definitions**

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### **Accommodation**

Accommodation is 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. For more information, please see [Bulletin HRT 006](#), *Accommodation–Registered Operators of Hotels, Motels or Other Lodgings*, for information on lodging that is not subject to hotel room tax.

### **Indian**

An Indian is 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 Métis peoples, Inuit or Indians from the United States, as they do not meet the definition of an Indian under the federal legislation.

### **Reserve Land**

Reserve land is land that qualifies as reserve land under the *Indian Act* (Canada), and includes land classified as designated reserve land.

## **Eligibility Criteria**

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### **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 the federal government. 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 ministry authorizing exempt sales from that location. Accommodation operators located

on designated land may obtain such authorization by contacting their local Service BC Centre.

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 hotel room tax even if the accommodation is provided on reserve land.

## **Accommodation that Does Not Meet the Criteria**

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### **Taxable Accommodation**

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

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

## **Procedures for Operators Making Exempt Sales**

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### **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 hotel room 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 the photograph on the status card is that of the purchaser. From the information on the card, record the person's name, and the band's name and number or the registration number. Obtain the purchaser's

signature on the sales slip or 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. Verify that the purchaser's identification matches the name of the person authorized by the band. Record the name of the purchaser, the band's name and number, and the name of the band member who signed the authorization letter. Obtain the purchaser's signature on the sales slip or invoice, or in a log book maintained for this purpose.

## Retaining Records

Sales of accommodation may be made without collection of hotel room tax provided the above procedures have been followed. Operators must retain the sales records to substantiate the non-collection of hotel room tax.

If the non-collection of hotel room tax cannot be substantiated as outlined above, the operator may be liable for payment of an amount equal to the hotel room tax that 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 ministry to make exempt sales to Indians or Indian bands, must charge hotel room tax at the time of the sale. Under these circumstances, eligible purchasers may apply to the ministry for a refund of the hotel room tax paid.

## Need more info?

Accommodation website: [www.sbr.gov.bc.ca/industry\\_specific/accommodation/accommodation.htm](http://www.sbr.gov.bc.ca/industry_specific/accommodation/accommodation.htm)

Telephone (Vancouver): 604 660-4524

Toll free in Canada: 1 877 388-4440

E-mail: [CTBTaxQuestions@gov.bc.ca](mailto:CTBTaxQuestions@gov.bc.ca)

The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation. The *Hotel Room Tax Act* and Regulations are on our website at [www.sbr.gov.bc.ca/business/Consumer\\_Taxes/Hotel\\_Room\\_Tax/hrt\\_legislation.htm](http://www.sbr.gov.bc.ca/business/Consumer_Taxes/Hotel_Room_Tax/hrt_legislation.htm)

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