

THE TAX ADMINISTRATION AND MISCELLANEOUS TAXES ACT (TAMTA)

FIRST NATIONS INDIVIDUALS, BANDS AND ORGANIZATIONS

This bulletin provides information about retail sales tax (RST), fuel tax and tobacco tax exemptions, processes, documentation and record keeping requirements for sales to First Nations individuals, bands and organizations. This includes sales made by businesses on reserve and businesses who ship the goods directly or by common carrier to a reserve. This bulletin also outlines the fuel and tobacco tax refund programs.

SECTION 1: GENERAL INFORMATION

Definitions

Band or **First Nations band** is a “band” as defined in section 2 of the Indian Act (Canada).

Band-empowered entity is a board, council, association, society or other organization that is owned or controlled by a band, a tribal council or a group of bands other than a tribal council.

First Nations individual is a person who falls within the legal definition of an “Indian” under the Indian Act (Canada) and who has a Secure Certificate of Indian Status card, a Certificate of Indian Status card or a valid Temporary Confirmation of Registration Document issued by Indigenous Services Canada (ISC). For additional information, visit the ISC website at www.canada.ca/en/indigenous-services-canada.html

Reserve is land that has received official reserve status from the federal government.

Secure Certificate of Indian Status or **Certificate of Indian Status card (Status card)** is a card issued by ISC as an official identity document confirming the cardholder to be registered under the Indian Act (Canada). The card contains the cardholder’s photograph, name, signature, 10-digit Registration (Status) number, band name and/or number and renewal or expiry date. Click [here](#) to see samples.

Temporary Confirmation of Registration Document (TCRD) is an official document issued by ISC that confirms registration under the Indian Act (Canada). The document contains the First Nations individual’s name, 10-digit Registration (Status) number and expiry date. The TCRD is valid for one year from date of issuance. Click [here](#) to see a sample.

Tribal Council is an organization established by two or more bands with a common interest that have joined together to provide advisory and/or program services to their members.

Overview of the Tax Exemption

Under section 87 of the Indian Act (Canada), the personal property of a First Nations individual and band situated on a reserve is exempt from taxation.

To qualify for the exemption, the goods or services purchased or leased must be for the personal use of and paid for by the First Nations individual or band. Purchases and leases made on behalf of a non-First Nations individual are subject to tax.

The goods or services must be purchased or leased on reserve or the vendor delivers the goods directly or by common carrier to a reserve. If the First Nations individual or band takes possession of the goods or services off reserve, including arranging their own delivery of the goods, or the lessee resides off reserve, tax must be charged.

Who is Eligible for the Tax Exemption

The following are eligible for the tax exemption:

- First Nations individuals who have a Status card. If the Status card has expired, the individual must provide additional government issued photo identification that matches the individual with the expired Status card. Acceptable government issued photo identification includes a driver's licence and passport. An altered, photocopy or photo of a Status card is not acceptable.
- First Nations individuals who have a valid TCRD. The individual must provide additional government issued photo identification that matches the individual with the TCRD. Acceptable government issued photo identification includes a driver's licence and passport. An altered, photocopy or photo of a TCRD is not acceptable.
- First Nations bands. If an individual is purchasing goods or services on behalf of a band (including an unincorporated band-empowered entity or unincorporated tribal council), written authorization from the band to act on the band's behalf must be presented. The authorization must include the name of the individual, the band name and number and be signed by an authorized band employee.
- Unincorporated band-empowered entities that meet the following criteria:
 - owned or controlled by First Nations individuals or bands or an unincorporated tribal council; and
 - formed for the sole purpose of non-commercial activities related to band administration or providing on reserve services such as garbage collection, water and sewage or education and health services; and
 - situated on a reserve and the expenses are incurred on reserve.
- Unincorporated tribal councils.

- Partnerships where First Nations individuals, bands, unincorporated band-empowered entities and unincorporated tribal councils hold 95% or more of the partnership interests. See [Information Bulletin No. 042, Corporations, Partnerships, Joint Ventures and Trusts](#) for additional information.

Who is Not Eligible for the Tax Exemption

The following are not eligible for the tax exemption:

- First Nations individuals who do not provide a Status card or valid TCRD.
- First Nations individuals who provide a photocopy or photo of a Status card or TCRD.
- First Nations individuals whose TCRD has expired or is altered.
- Métis, Inuit and non-Status First Nations individuals.
- First Nations individuals from the United States.
- Corporations, cooperatives, corporate partners and joint ventures, including corporations, cooperatives, corporate partners and joint ventures owned or controlled by First Nations individuals, bands, band-empowered entities or tribal councils, even if all the shareholders are First Nations individuals or bands.
- Trusts, including trusts owned or controlled by First Nations individuals, bands, band-empowered entities or tribal councils.
- Incorporated band-empowered entities.
- Incorporated tribal councils.
- Partnerships where First Nations individuals, bands, unincorporated band-empowered entities and unincorporated tribal councils hold less than 95% of the partnership interests. See [Information Bulletin No. 042, Corporations, Partnerships, Joint Ventures and Trusts](#) for additional information.

Process and Documentation Required to Support RST, Fuel and Tobacco Tax Exemptions

The following explains the process to be followed and documentation required to support a tax exempt sale on reserve, shipped to reserve by the vendor or leased on reserve to a First Nations individual, band or tax exempt organization:

The First Nations individual must present their Status card or valid TCRD to the sales associate. For an expired Status card and for a valid TCRD, the individual must provide additional government issued photo identification that matches the individual with the expired Status card or valid TCRD. Acceptable government issued photo identification includes a driver's licence and passport.

If an individual is purchasing goods or services or leasing goods on behalf of a band (including an unincorporated band-empowered entity or unincorporated tribal council), written authorization from the band must be presented. The sales associate must confirm that the name of the individual matches the individual's name authorized by the band by examining government issued photo identification, such as a driver's licence or passport.

The sales associate must confirm that the photograph on the Status card matches the likeness of the First Nations individual. If the picture on the Status card does not match the likeness of the individual, tax must be charged. If the individual presents an expired Status card or a valid TCRD, the sales associate must confirm that the photograph on the additional government issued photo identification matches the likeness of the individual. If the picture on the government issued photo identification does not match the likeness of the individual, tax must be charged.

If the vendor has a point-of-sale (POS) system, the sales receipt must include the First Nations individual's name, Registration (Status) number and signature. The sales receipt must also include the band name and number if the purchaser is a band. The sales associate must confirm that the signature on the Status card matches the signature on the sales receipt. If the individual presents a TCRD, the sales associate must confirm that the signature on the government issued photo identification matches the signature on the sales receipt. If the signatures do not match, tax must be charged.

If the vendor uses a manual system to track tax exempt sales, the sales associate must ensure the required information (First Nations individual's name, Registration (Status) number and signature) is captured for each sale on the sales form or document. The sales form or document must also include the band name and number if the purchaser is a band. The sales associate must confirm that the signature on the Status card matches the signature on the sales form or document. If the individual presents a TCRD, the sales associate must confirm that the signature on the government issued photo identification matches the signature on the sales form or document. If the signatures do not match, tax must be charged.

Leased Goods

If the First Nations individual or band is leasing the goods, the sales invoice must also include the individual's or band's reserve address. If the First Nations individual resides off reserve, tax must be charged.

Delivery of Goods to Reserve

If the vendor delivers the goods directly or by common carrier to a reserve, the sales invoice must also include the name of the reserve where the goods were delivered and the method of delivery to the reserve. If the First Nations individual or band takes possession of the goods or services off reserve, including arranging their own delivery of the goods, tax must be charged.

Online and Phone Orders

For online and phone orders (including fax orders) for goods delivered by the vendor to a reserve address, the sales receipt must include the First Nations individual's name, Registration (Status) number, the address of the reserve where the goods are being delivered and the method of delivery to the reserve. A photocopy or photo of both sides of the individual's Status card or valid TCRD must be requested and retained. If the purchaser is a band, the band name and number must also be documented and a letter on band letterhead signed by an authorized band employee stating that the goods purchased are exclusively for the band's use or consumption must be requested and retained. For these sales, a signature is not required. If a copy of the Status card or TCRD or letter on band letterhead is not received, tax must be charged.

If tax was charged on an online or phone order (including a fax order) for goods that were delivered to a reserve by the vendor, the First Nations individual or band can apply for a refund. The original receipt showing the First Nations individual's name and address or the band's name and number must be included with the refund claim. In addition, proof of payment of tax and a photocopy or photo of both sides of the individual's Status card or valid TCRD or a letter on band letterhead signed by an authorized band employee stating that the goods purchased are exclusively for the band's use or consumption must also accompany the refund claim. Contact the Winnipeg office of Manitoba Finance below to request a refund form or for additional information.

SECTION 2: FUEL TAX REFUND PROGRAM AND BULK FUEL PURCHASES BY BANDS

First Nations Fuel Tax Refund Program

Under Manitoba's First Nations Fuel Tax Refund Program, fuel tax refunds are paid to on reserve fuel retailers for their tax paid fuel purchases that are subsequently sold tax exempt to First Nations individuals, bands and tax exempt organizations who take possession of the fuel at the time of sale on a reserve. The fuel must be used by the First Nations individuals, bands and tax exempt organizations for their own use.

The fuel retailer submits bi-weekly refund claims with supporting documentation for the reporting period. Supporting documentation includes all fuel purchase invoices from Manitoba licenced fuel wholesale dealers showing Manitoba fuel tax was paid and a point-of-sales (POS) printout of tax exempt sales to First Nations individuals, bands and tax exempt organizations (i.e. Treaty Purchase Report). If the retailer uses a manual system to track tax exempt sales, fuel meter or dip stick readings are required. Refunds are paid to the fuel retailer by direct deposit once approved.

Bulk Fuel Purchases by Bands

First Nations bands who purchase bulk fuel must buy clear taxable fuel and claim a refund of tax paid on fuel for the band's own use on reserve only. Fuel purchased for resale or for use off reserve does not qualify for the refund.

Refund claims must include fuel purchase invoices from Manitoba licenced fuel wholesale dealers showing Manitoba fuel tax was paid, the total litres of fuel consumed for the band's own use and a letter on band letterhead signed by an authorized band employee stating that the fuel was used exclusively by the band. A description of the fuel usage (i.e. school buses, garbage collection, on reserve road maintenance, etc.) must accompany the refund claims. Refunds are paid to the band by direct deposit once approved.

Fuel - Other Information

A fuel retailer or band cannot sell fuel to other retailers.

Contact the Winnipeg office of Manitoba Finance below to register under the fuel tax refund program, to submit a refund claim, to request program forms or schedules or for additional information.

SECTION 3: TOBACCO TAX REFUND PROGRAMS

Tobacco Tax Refund Limit Program

Under Manitoba's Tobacco Tax Refund Limit Program, tobacco tax refunds are paid to on reserve tobacco retailers for their tax paid tobacco purchases that are subsequently sold tax exempt to First Nations individuals, bands and tax exempt organizations for their personal use.

A monthly limit is established on refunds available to tobacco retailers on reserve selling tax exempt tobacco. The limit is determined by considering the reserve's adult band members who reside either on or off the reserve, the general smoking patterns and tobacco use of First Nations individuals in Manitoba and special events or circumstances taking place on reserves.

The Chief and Council of a reserve are authorized to allocate and adjust the reserve's monthly refund limit among the retailers located on the reserve as well as request a temporary increase in the reserve's monthly refund limit to take into account special events or circumstances on the reserve. Manitoba Finance will notify each of the reserve's tobacco retailers of their allocation of the reserve's monthly refund limit, including any adjustments to their allocation. If the Chief and Council elect not to allocate the monthly refund limit among the retailers on the reserve, Manitoba Finance will make the allocation, taking into account the number of retailers on reserve and their sales volume.

Refunds of tax exempt sales made in excess of the retailer's monthly limit are disallowed.

The tobacco retailer submits monthly refund claims with supporting documentation for the reporting period, including all tobacco purchase invoices from Manitoba licenced tobacco wholesale dealers showing Manitoba tobacco tax was paid, a summary of tax exempt and taxable sales and a summary of tobacco inventory for the period. Refunds are paid to the tobacco retailer by direct deposit once approved.

Tobacco Band Assessment Program

Under Manitoba's Tobacco Band Assessment Program, an agreement is signed between the Province of Manitoba and a band whereby the band levies a band tax equal to Manitoba's tobacco tax on tobacco sold to First Nations individuals, bands and tax exempt organizations for their personal use.

The tobacco retailer must ensure the retail selling price of all tobacco products is equal to or greater than their cost of the tobacco products. The retailer must complete and maintain tobacco purchase and sale records to facilitate the timely and accurate calculation of the band assessment payable to the band. The retailer must also make records available to the band and Manitoba Finance as required for inspection, review or audit.

The tobacco retailer submits monthly claims with supporting documentation for the reporting period, including tobacco purchase invoices from Manitoba licenced tobacco wholesale dealers showing Manitoba tobacco tax was paid. Payments are paid to the band by direct deposit once approved.

Tobacco - Other Information

A tobacco retailer cannot sell tobacco to other retailers.

Tobacco retailers are required to monitor their sales to ensure that they represent a pattern for personal use. Refunds to retailers and payments to bands will be limited to sales of tobacco to purchasers for their personal use.

The following guidelines will assist in determining whether or not the sale of tobacco is for personal use:

- Cigarettes are generally sold to individuals in quantities of one carton or less. Frequent purchases of two or more cartons by the same individual are an indication that the cigarettes are not being purchased for personal use.
- When individuals arrive in groups to purchase two or more cartons each, it is unlikely that they are purchasing cigarettes for their own use. In these situations, it would be reasonable for the retailer to limit sales to these purchasers.

Contact the Winnipeg office of Manitoba Finance below to register under the tobacco tax refund program, to submit a refund claim, to request program forms or schedules or for additional information.

Section 4: Record Keeping and Other Information

Record Keeping Requirements

Businesses are required to keep records and documents to substantiate tax exempt sales and leases of goods and sales of services to First Nations individuals, bands and tax exempt organizations. This includes sales receipts, forms and documents where

the First Nations individual's signature is captured and documents to prove delivery to a reserve.

All sales documentation, including sales receipts, forms and documents for sales to non-First Nations individuals and taxable First Nations organizations must also be retained.

See [Information Bulletin No. 016, Record Keeping and Retention Requirements](#) for additional information on record keeping requirements for businesses.

Vendor's Responsibilities

If the required information (First Nations individual's name, Registration (Status) number and signature, band name and number if applicable, address if leasing goods or delivery of goods by the vendor and method of delivery) is not captured for each sale or lease on the sales receipt, form or document, the vendor is responsible for the tax payable, plus penalty and interest.

If the vendor fails to charge and/or collect the tax owing, the vendor is responsible for the tax payable, plus penalty and interest.

Situations Where Tax Must be Charged

If the First Nations individual does not provide the required documentation to support a tax exemption or the documentation does not match the likeness or the signature of the individual, tax must be charged.

If the First Nations individual refuses to sign the sales receipt or form or document, tax must be charged.

If the First Nations individual leases goods but lives off reserve, tax must be charged.

If the First Nations individual or band takes possession of goods off reserve, tax must be charged.

FURTHER INFORMATION:

This bulletin is intended to serve as a guideline and is not all-inclusive. For the specific wording of the law, please refer to The Tobacco Tax Act and The Tax Administration and Miscellaneous Taxes Act and Regulations. Further information on specific taxable and tax exempt sales to First Nations individuals, bands and organizations may be obtained from:

Winnipeg Office

Manitoba Finance
Room 101, 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone: 204-945-5603
Manitoba Toll-Free: 1-800-782-0318
Fax: 204-945-0896
E-mail: MBTax@gov.mb.ca
Web Site: <https://www.manitoba.ca/finance/taxation/>

Westman Regional Office

Manitoba Finance
314, 340-9th Street
Brandon, Manitoba R7A 6C2
Fax: 204-726-6763

ONLINE SERVICES:

Our Web site [here](#) provides tax forms and publications about taxes administered by Manitoba Finance and a link to Manitoba's laws and regulations. Forms and publications can also be obtained by contacting Manitoba Finance.

TAXcess, our online service [here](#) provides a simple, secure way to apply for and to file, pay and view your Manitoba tax accounts.