

NOTTAWASEPPI HURON BAND OF POTAWATOMI

PURCHASE OF TAX EXEMPT MOTOR FUELS

CHAPTER 1: REGULATION OF SALES OF TAX FREE MOTOR FUELS

ARTICLE 1. PURPOSE

SECTION 1.01 PURPOSE. THE PURPOSE OF THIS CHAPTER IS TO PROVIDE A FRAMEWORK FOR ENSURING THAT THE PURCHASES OF MOTOR FUELS EXEMPT FROM MICHIGAN MOTOR FUELS TAX FROM AUTHORIZED RETAILERS ARE UNDERSTOOD, UNDERTAKEN IN COMPLIANCE WITH LEGAL OBLIGATIONS UNDER THE TAX AGREEMENT BETWEEN THE NOTTAWASEPPI HURON BAND OF THE POTAWATOMI AND THE STATE OF MICHIGAN, AND TO ENSURE UNIFORMITY OF PROCEDURES.

SECTION 1.02 EFFECTIVE DATE. THE EFFECTIVE DATE OF THIS CODE IS JANUARY 1, 2010.

ARTICLE 2. DEFINITIONS

SECTION 2.01 DEFINITIONS. FOR PURPOSES OF THIS CHAPTER, THE FOLLOWING TERMS HAVE THE MEANINGS ASSIGNED TO THEM IN THIS SECTION.

- A. *AUTHORIZED RETAIL LOCATION* MEANS A RETAIL SELLER OF DIESEL OR GASOLINE WHOSE LOCATION HAS BEEN DESIGNATED BY RESOLUTION OF THE TRIBAL COUNCIL AND AUTHORIZED TO MAKE SALES AT RETAIL OF GASOLINE AND DIESEL FROM A LOCATION WITHIN TRIBAL AND TRUST LANDS.
- B. *DIESEL* MEANS ANY LIQUID OTHER THAN GASOLINE THAT IS CAPABLE OF USE AS A FUEL OR A COMPONENT OF A FUEL IN A MOTOR VEHICLE THAT IS PROPELLED BY A DIESEL-POWERED ENGINE OR IN A DIESEL-POWERED TRAIN.
- C. *MOTOR FUEL* MEANS GASOLINE, DIESEL FUEL, A MIXTURE OF GASOLINE OR ANY OTHER SUBSTANCE THAT IS CAPABLE OF USE AS A FUEL OR A COMPONENT OF FUEL IN A MOTOR VEHICLE FOR USE ON THE PUBLIC ROADS OR HIGHWAYS IN THE STATE OF MICHIGAN.
- D. *PURCHASER* MEANS ANY PERSON THAT PURCHASES EXEMPT MOTOR FUELS AT RETAIL.
- E. *SALES AT RETAIL OR RETAIL SALE* MEANS A SALE, LEASE, OR RENTAL OF TANGIBLE PERSONAL PROPERTY FOR ANY PURPOSE OTHER THAN FOR RESALE, SUBLEASE, OR SUBRENT.
- F. *STATE* MEANS THE STATE OF MICHIGAN.
- G. *TAX AGREEMENT* MEANS THE TAX AGREEMENT BETWEEN THE NOTTAWASEPPI HURON BAND OF POTAWATOMI AND THE STATE OF MICHIGAN,” DATED DECEMBER 20, 2002, AS THE SAME MAY BE AMENDED FROM TIME-TO-TIME.

- H. *TAX AGREEMENT AREA* MEANS THE AREA DESIGNATED AS SUCH IN APPENDIX A OF THE TAX AGREEMENT, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.
- I. *TAX DEPARTMENT* MEANS THE DIVISION OF THE TRIBE'S ACCOUNTING DEPARTMENT CHARGED WITH THE IMPLEMENTATION AND ADMINISTRATION OF THIS CHAPTER.
- J. *TRIBAL AND TRUST LANDS* MEANS ALL FEE LANDS OWNED BY THE TRIBE AND LANDS HELD IN TRUST BY THE FEDERAL GOVERNMENT FOR THE BENEFIT OF THE TRIBE, WHICH ARE DESIGNATED AS TRIBAL AND TRUST LANDS IN APPENDIX A OF THE TAX AGREEMENT, AS THE SAME MAY BE AMENDED FROM TIME-TO-TIME.
- K. *TRIBAL MEMBER* MEANS AN INDIVIDUAL WHO IS AN ENROLLED MEMBER OF THE TRIBE.
- L. *TRIBE* MEANS THE NOTTAWASEPPI HURON BAND OF THE POTAWATOMI INDIANS. THE TERM TRIBE INCLUDES ALL DIVISIONS OR SUBDIVISIONS OF THE TRIBAL GOVERNMENT AND BUSINESS ENTERPRISES, INCLUDING CHARTERED ENTITIES OR INSTRUMENTALITIES THAT ARE WHOLLY OWNED BY THE TRIBE.

ARTICLE 3. REQUIREMENTS FOR PURCHASERS OF EXEMPT MOTOR FUELS

SECTION 3.01 PURCHASES SUBJECT TO MICHIGAN MOTOR FUEL TAX. UNLESS EXEMPTED BY THIS CODE, ALL PURCHASES OF MOTOR FUEL PRODUCTS BY TRIBAL MEMBERS SHALL BE SUBJECT TO THE IMPOSITION AND COLLECTION OF MICHIGAN MOTOR FUEL PRODUCTS TAX, WHICH SHALL BE ADDED TO THE PRICE.

SECTION 3.02 AUTHORIZED RETAIL LOCATIONS AT WHICH EXEMPT PURCHASES MAYBE MADE.

- A. MOTOR FUEL PRODUCTS MAY BE PURCHASED BY TRIBAL MEMBERS OR AUTHORIZED TRIBAL EMPLOYEES WITHOUT PAYMENT OF MICHIGAN MOTOR FUEL PRODUCTS TAX AT THE FOLLOWING AUTHORIZED RETAIL LOCATIONS:
 - 1. PS MART LOCATED AT 8160 M-60, UNION CITY, MICHIGAN
 - 2. CITGO LOCATED AT 15551 11 MILE ROAD, BATTLE CREEK, MICHIGAN (CORNER OF MICHIGAN AVENUE AND 11 MILE ROAD NEAR FIREKEEPERS CASINO)
- B. EXCEPT AS PROVIDED IN SUB-SECTION (A), TRIBAL MEMBERS MAY NOT PURCHASE TAX EXEMPT MOTOR FUEL PRODUCTS AT ANY OTHER RETAIL ESTABLISHMENT.

SECTION 3.03 REGISTRATION REQUIREMENT. EFFECTIVE APRIL 1, 2010, ALL TRIBAL MEMBERS MUST REGISTER WITH THE TAX DEPARTMENT, ON A FORM PRESCRIBED BY THE TAX DEPARTMENT, TO BE ELIGIBLE TO PURCHASE TAX-EXEMPT MOTOR FUEL AFTER THAT DATE. THE REGISTRATION FORM SHALL SPECIFY THE LICENSE PLATE NUMBER AND DESCRIPTION OF THE VEHICLE THAT TAX-EXEMPT MOTOR FUEL WILL BE PURCHASED FOR. THE VEHICLE MUST BE OWNED BY THE TRIBAL MEMBER OR THE TRIBAL MEMBER'S FAMILY.

SECTION 3.04 PROCEDURE FOR MAKING PURCHASES OF EXEMPT MOTOR FUELS. ANY TRIBAL

MEMBER WISHING TO PURCHASE TAX-EXEMPT GASOLINE OR DIESEL FUEL MUST, AT THE TIME OF PURCHASE, PRESENT HIS/HER TRIBAL IDENTIFICATION CARD TO THE SALES REPRESENTATIVE OF THE AUTHORIZED RETAIL LOCATION AND COMPLETE THE LOG OF TAX EXEMPT MOTOR FUELS SALES MAINTAINED AT EACH AUTHORIZED RETAIL LOCATION. EACH TRIBAL MEMBER MAKING A PURCHASE OF EXEMPT MOTOR FUEL WILL BE REQUIRED TO COMPLETE THE LOG BY PROVIDING THE FOLLOWING INFORMATION TO THE AUTHORIZED RETAIL LOCATIONS:

- A. PRINTED NAME OF PURCHASER;
- B. PURCHASER'S SIGNATURE;
- C. LICENSE PLATE NUMBER OF VEHICLE;
- D. DATE OF PURCHASE;
- E. NUMBER OF GALLONS PURCHASED; AND
- F. TYPE OF FUEL (GASOLINE/DIESEL) PURCHASED.

SECTION 3.05 *LIMITS ON PURCHASES OF EXEMPT MOTOR FUEL PRODUCTS BY TRIBAL MEMBERS.*

- A. TRIBAL MEMBERS MAY PURCHASE MOTOR FUEL PRODUCTS FROM THE AUTHORIZED RETAIL LOCATIONS LISTED IN SECTION 3.02 WITHOUT PAYMENT OF MOTOR FUEL TAX, PROVIDED THE PURCHASE IS SOLELY FOR PERSONAL USE AND NOT FOR RESALE.
- B. EXCEPT AS PROVIDED IN PARAGRAPH (C), TRIBAL MEMBERS ARE ELIGIBLE TO PURCHASE UP TO 150 GALLONS OF EXEMPT MOTOR FUELS PER CALENDAR MONTH.
- C. MONTHLY PURCHASE LIMITS MAY BE ADJUSTED QUARTERLY BASED ON THE NUMBER OF GALLONS OF EXEMPT MOTOR FUELS REMAINING ON THE ANNUAL CEILING ESTABLISHED BY THE TRIBE AND THE STATE. ANY CHANGES IN THE MONTHLY PURCHASE LIMITS WILL BE POSTED ON TRIBAL MEMBER PURCHASE LOG AT EACH AUTHORIZED RETAIL LOCATION ON THE FIRST DAY OF EACH QUARTER.
- D. TRIBAL MEMBERS ARE RESPONSIBLE FOR MONITORING THEIR OWN PURCHASES OF EXEMPT MOTOR FUELS AND STAYING WITHIN THE MONTHLY PURCHASE LIMIT POSTED ON THE TRIBAL MEMBER PURCHASE LOG AT AUTHORIZED RETAIL LOCATIONS.
- E. TRIBAL MEMBERS SHALL BE PROHIBITED FROM PURCHASING MORE THAN THE POSTED NUMBER OF GALLONS OF TAX-EXEMPT GASOLINE OR DIESEL FUEL DURING ANY CALENDAR MONTH. THE AUTHORIZED RETAIL LOCATIONS SHALL BE DIRECTED TO INCLUDE THE FULL AMOUNT OF MICHIGAN MOTOR FUEL TAX IN THE PRICE OF ALL MOTOR FUEL PRODUCTS SOLD TO TRIBAL MEMBERS IN EXCESS OF THE POSTED GALLON LIMIT DURING ANY CALENDAR MONTH.
- F. ALL SALES OF MOTOR FUEL PRODUCTS TO TRIBAL MEMBERS IN EXCESS OF THE TOTAL ANNUAL CEILING FOR TAX EXEMPT MOTOR FUEL PRODUCT SALES AGREED TO BY THE TRIBE AND THE STATE OF MICHIGAN UNDER THE TAX AGREEMENT SHALL INCLUDE THE FULL AMOUNT OF THE MICHIGAN MOTOR FUEL TAX.
- G. THE TAX DEPARTMENT SHALL AUDIT THE RECORDS OF AUTHORIZED RETAIL LOCATIONS TO ENFORCE THE LIMITS PRESCRIBED IN THIS CODE. TRIBAL MEMBERS WHO PURCHASE TAX EXEMPT GALLONS ABOVE THE SINGLE TRANSACTION AND MONTHLY LIMITS ESTABLISHED IN THESE REGULATIONS WILL BE RESPONSIBLE FOR PAYING THE MOTOR FUEL TAX ON EXCESS PURCHASES. PENALTY WILL BE ASSESSED ON EXCESS PURCHASES.

ARTICLE 4. PENALTIES; ENFORCEMENT.

SECTION 4.01 CIVIL PENALTIES; REMEDIES.

- A. ANY PERSON WHO VIOLATES SECTION 3.05(A) OF THIS CODE BY PURCHASING TAX FREE MOTOR FUELS FOR COMMERCIAL USE OR FOR USE BY A PERSON WHO IS NOT A TRIBAL MEMBER SHALL BE GUILTY OF A CIVIL INFRACTION AND SHALL BE OF A CIVIL INFRACTION AND SHALL BE SUBJECT TO A CIVIL PENALTY OF ONE HUNDRED DOLLARS (\$100.00). EACH TRANSACTION BY WHICH A PERSON VIOLATES SECTION 3.05(A) SHALL BE TREATED AS A SEPARATE OFFENSE.
- B. ANY PERSON WHO VIOLATES SECTION 3.03, 3.04, OR 3.05(B) OR (C) OF THIS CODE SHALL BE GUILTY OF A CIVIL INFRACTION AND SHALL BE OF A CIVIL INFRACTION AND SHALL BE SUBJECT TO A CIVIL PENALTY OF FIFTY DOLLARS (\$50.00). EACH TRANSACTION BY WHICH A PERSON VIOLATES ANY OF THE ABOVE SECTIONS SHALL BE TREATED AS A SEPARATE OFFENSE.
- C. THE CIVIL PENALTIES PROVIDED FOR IN THIS SECTION ARE NOT INTENDED TO BE EXCLUSIVE, BUT SHALL BE IN ADDITION TO AND INDEPENDENT OF:
 - 1. ASSESSMENT OF THE TRIBAL MEMBER FOR THE AMOUNT OF MICHIGAN MOTOR FUELS TAXES EXEMPTED ON PURCHASES BY THE TRIBAL MEMBER WHICH ARE MADE IN VIOLATION OF THIS CODE;
 - 2. SUSPENSION OF A TRIBAL MEMBER'S PRIVILEGE TO PURCHASE TAX FREE MOTOR FUELS FOR UP TO 1 YEAR; OR
 - 3. PROSECUTION OR OTHER ENFORCEMENT ACTION UNDER TRIBAL, FEDERAL, OR STATE LAW.

ARTICLE 5. SEVERABILITY

SECTION 5.01 SEVERABILITY. IF ANY PROVISION OF THIS CHAPTER OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.