



Doing Business on Oneida Nation Land

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Welcome to the Oneida Indian Nation. If you are doing business on Nation Land or would like to do business on Nation Land, we hope that you find the following information helpful.

Because of a 2013 agreement between the Nation, New York State and Madison and Oneida Counties, any person or entity doing business on Nation Land is required to collect and remit Nation sales taxes to the Oneida Indian Nation Department of Taxation instead of the New York State Department of Taxation and Finance. You, therefore, should not collect or remit any sales taxes on sales made on Nation Land to New York State or any county in New York State (for more information, see http://www.tax.ny.gov/pdf/notices.n15_2.pdf and [Nation Tax Rules](#)).

The following is intended to provide you with information on how to (1) register with the Nation Department of Taxation for the authority to collect and remit sales taxes and (2) collect and remit sales taxes to the Nation Department of Taxation. The complete rules relating to these taxes are available from the Nation Department of Taxation.

*What does it mean to be doing business on Nation Land?
What are Nation Lands?*

Nation Land is land owned by the Oneida Indian Nation within Madison and Oneida County acknowledged as the reservation of the Oneida Nation in Article II of the 1794 Treaty of Canandaigua between the Nation and the United States of America. See <http://theoneidanation.com/publicaffairs/wp-content/uploads/Oneida-Indian-Nation-Reservation-Map.pdf> and http://www.tax.ny.gov/bus/st/oneida_map.htm. Nation Land includes, without limitation, Turning Stone Resort Casino and SavOn properties. If you are conducting business and making taxable sales on Nation Lands, you are subject to Oneida Indian Nation taxes and the Nation's Tax Rules. See http://www.tax.ny.gov/pdf/notices.n15_2.pdf.

*How Do I Register with the Oneida Indian Nation for Sales Tax Purposes?
Do I need to register?*

If you will be making sales on Nation Land that are subject to sales tax, you must register with the Nation Department of Taxation and obtain a Certificate of Authority at least 5 days before you begin business. The Certificate of Authority gives you the right and obligation to collect Nation sales tax on your taxable sales. How often you sell or how much you charge for goods and services does not usually determine whether you need to register with the Nation Department of Taxation. For example, if you sell taxable items at an event on Nation Land, such as Turning Stone, only once a year, you are still required to register, and to collect and remit sales tax.

What sales are taxable?

Generally, sales of tangible personal property (in other words, something that you can see and touch) and certain services are subject to sales tax when sold and delivered or performed on Nation Land. If you have questions on whether or not your business activity requires you to be registered to collect and remit sales tax, please contact Mary Jo Burdick, Director of the Nation Department of Taxation, at (315) 366-9393 or at taxinfo@oneida-nation.org.



How do I register?

To register with the Nation Department of Taxation and apply for a Certificate of Authority, you must complete either the Application for Exhibitors License and Certificate of Authority or the Application for Retail License and Certificate of Authority (which form to use is discussed below). To complete the application, go to the Oneida Indian Nation Tax Portal at www.oneidanationtax.com and create an account. Please see the home page for how to get started.

Your application will be processed and, if approved, we will email your Certificate of Authority to the address you provide. You cannot make any taxable sales on Nation Land until you receive your Certificate of Authority.

If you have any questions on how to register and apply for a certificate of Authority through the Oneida Indian Nation Tax Portal please contact the Nation Department of Taxation for assistance at (315) 366-9393 or taxinfo@oneida-nation.org.

Which application do I use?

You can apply for either an Exhibitor License and Certificate of Authority (Form OTD-17.1) or a Retail License and Certificate of Authority (Form OTD-17). The type of Certificate of Authority you need is based on how you plan to operate.

An Exhibitor License and Certificate of Authority can be used when you plan to make sales on Nation Land less than 4 specific events in a calendar year. For example, if you make sales at a show or entertainment event, such as a craft show, antique show, consumer event or sporting event only once during the calendar year, you should apply for an Exhibitor License and Certificate of Authority. You will need to apply for an Exhibitor License and Certificate of Authority for each specific event within the calendar year. Upon conclusion of such event the Exhibitor License and Certificate of Authority issued to you by the Nation Department of Taxation will automatically expire.

You should apply for a Retail License and Certificate of Authority if you will be making taxable sales on Nation Land 4 or more times throughout the calendar year.

If you are not sure which application to complete, you can contact the Nation Department of Taxation for assistance at (315) 366-9393 or taxinfo@oneida-nation.org.

What if I have multiple locations?

If you will have multiple locations on Nation Land you only need to register with the Nation Department of Taxation once, but you should display a copy of your Certificate of Authority at each location.

If you plan to operate multiple businesses (not just multiple locations), you must have a Certificate of Authority for each separate business located on Nation Land, and you need to file an application for a separate Certificate of Authority for each business.

What do I do with my Certificate of Authority?

You must prominently display your Certificate of Authority at your place of business, including additional locations. If you have no permanent physical location, you can attach it to your truck, cart, wagon, stand, or other vehicle or facility from which you conduct business. You may be subject to a penalty if you fail to properly display your Certificate of Authority.



Where can I get another copy of my Certificate of Authority?

If you are already registered with the Department of Taxation but need a duplicate copy of your Certificate of Authority because the original was misplaced or destroyed, you can email us at taxinfo@oneida-nation.org or call us at (315) 366-9393 to request a new Certificate.

Can I transfer my Certificate of Authority?

A Certificate of Authority cannot be transferred or assigned. If you are buying an existing business, or taking over the ownership of a business, you must apply for your own Certificate of Authority. You cannot use the Certificate of Authority issued to the previous owner.

What happens if I don't register?

If you are required to register with the Nation Department of Taxation but fail to do so and you operate a business without a valid Certificate of Authority, you will be subject to a penalty. The maximum penalty for operating a business on Nation Land without a valid Certificate of Authority is up to \$500 for the first day business is conducted on Nation Land without a valid Certificate of Authority plus up to \$200 for each subsequent day up to a maximum penalty of \$10,000.

What if I cease doing business?

If you cease doing business on Nation Land, you must return your Certificate of Authority to the Nation Department of Taxation, along with your final sales tax return, to:

Oneida Indian Nation Department of Taxation
Director of Department of Taxation
2037 Dream Catcher Plaza
Oneida, New York 13421

How do I pay or remit sales taxes to the Nation?

How do I remit sales taxes to the Nation Department of Taxation?

You must remit sales taxes to the Nation Department of Taxation using the Nation's sales and use tax return (Oneida Indian Nation Sales Tax Return Form OST-808, 809 or 810). Your return and any required schedules are used to report your business activity on Nation Land. Use them to report your gross sales, your total non-taxable and exempt sales, your purchases on which you are required to pay Nation use tax, and the total amount of the credits you are claiming on the return. You will also report the amount of your purchases that are subject to Nation tax. You must compute the amount of Nation sales and use tax you must remit with the return.



When are sales taxes due to the Nation?

Nation sales taxes and returns are due monthly. The monthly tax period starts on the first day of each calendar month for which you are required to file a return, and ends on the last day of the same calendar month. Your return is due no later than the 20th day of the calendar month immediately following the calendar month of the tax period. (For example, your return for the tax period January 1, 2014 to January 31, 2014 is due no later than February 20, 2014) or the next business day if the due date falls on a Saturday, Sunday or Federal holiday.

You must remit any Nation tax due, including any tax that you have not yet collected from purchasers on sales occurring during the filing period. You must remit the Nation tax due on or before the due date. Late filing or late remittances will subject you to penalties and interest. In addition, a bad check or failed electronic withdrawal fee may be imposed for any amount due that is returned without payment.

Where do I file my tax returns and remit my Nation sales taxes?

Go to the Oneida Indian Nation Tax Portal at www.oneidanationtax.com and log into your account. Complete the eForm you will be filing Form OST-808, 809 or 810. Once your return is completed, your payment can be submitted electronically.

If you have any questions on how to file your tax returns and remit your Nation sales taxes through the Oneida Indian Tax Portal, please contact Department of Taxation for assistance at 315.366.9393 or taxinfor@oneida-nation.org.

What if there is no tax due for the month?

You must file a Nation sales and use tax return indicating that you had no taxable income for the month on time with the Nation Department of Taxation, even if you have no Nation tax due during the filing period.

What if my sales and use tax return is late or I fail to file a sales and use tax return?

If you fail to file a Nation sales and use tax return on time, penalty and interest are calculated on the amount of Nation tax due. A penalty, in the minimum amount of \$50, will be imposed whether or not there is any tax due. Therefore, it is very important that you know the dates by which your Nation returns must be filed, and that you remit any Nation tax due on time. See the Instructions to Oneida Indian Nation Sales Tax Return Form OST-808, 809 or 810 for further information regarding computation of penalties and interest.

What accounting method must my sales tax be based on?

A business may keep its books using the cash or accrual method of accounting. No matter which recordkeeping method you choose to record your business's transactions, you must report any sales made, and remit the Nation sales tax based on the accrual method of accounting. That is, you are required to report taxable sales and remit the Nation tax due on the return covering the period in which the sales are made, regardless of whether your customer has paid you.



How do I file if I have an Exhibitor License and Certificate of Authority?

Show Vendors and Exhibitors should also remit Nation sales and use tax and file their return using Nation Sales Tax Return Form OST-808. Your return is due no later than the 20th day of the calendar month immediately following the calendar month of the show or exhibition. (For example, if you made sales at a show in January 2014, your return is due no later than February 20, 2014) or the next business day if the due date falls on a Saturday, Sunday or Federal holiday.

When you file your return, you should check the “final return” box, and mark an “X” in the option listed to indicate that you are making a one-time tax filing with the Nation Department of Taxation pursuant to an Exhibitors License and Certificate of Authority. Your Exhibitors License and Certificate of Authority will automatically expire upon conclusion of the event for which it was issued. Failure to file, or late filings, will subject you to penalties and interest as described above.

How do I update changes to my business information?

You can update your sales and use tax mailing address using Nation Sales Tax Return Form OST-808, 809 or 810. If you need to change additional information such as the name, Federal EIN, physical address, telephone number, owner/officer information, business activity, third party designee or paid preparer address, you must contact the Nation Department of Taxation.

What if I cease doing business?

If you are permanently ceasing to do business subject to Nation sales or use tax, or if your business has been sold, dissolved, or discontinued, you must check this box to indicate that this is your final return. If you are filing a final return, you must surrender your Certificate of Authority to the Nation Department of Taxation along with the final return. You must file your final return and the Certificate of Authority within 20 days of ceasing to do business.

Are my books and records subject to audit by the Nation Department of Taxation?

Does the Nation Department of Taxation conduct audits?

The Nation Department of Taxation has the authority to periodically conduct audits of vendor books and records to ensure compliance with Oneida Nation Tax law. Contact the Nation Department of Taxation for additional information regarding the Nation Department of Taxation’s audit process. An audit may result in a bill for additional tax, penalties and interest; the denial of a refund or credit you claimed; a proposed refund based on overpayments; or we may find no action at all. The best way to avoid an audit is to file your returns correctly and pay the proper tax timely.

The Nation Department of Taxation conducts two types of audits: a ‘desk audit’ and a ‘field audit’.

A ‘desk audit’ is usually a review of tax returns, refund requests, or other documents that you have submitted to the Nation Department of Taxation. It may relate to unfiled reports, or be in response to information received from outside the Nation Department of Taxation. Based on that review you may receive a bill for additional tax, penalties and interest; the denial of a refund or credit you claimed; a proposed refund based on overpayments; or we may find no action at all.

A ‘field audit’ occurs upon your selection for audit by the Nation Department of Taxation, and may be based on information discovered during a desk audit, or independent from a desk audit. A field audit is generally more involved than a desk audit and may include a visit to your place of business on Nation land by a Nation Department of Taxation auditor.



How will I know if I am being audited?

With respect to a desk audit, if additional information is required, the Nation Department of Taxation may send a letter advising you of the desk audit and listing the additional specific information required. You may receive a notice from the Nation Department of Taxation at the conclusion of a desk audit, if, for example, the Nation Department of Taxation determines you owe additional tax or penalties and interest; that you are not entitled to a refund or credit that you claimed or that you are owed a refund based on overpayments.

In the event you are selected for a field audit, the Nation Department of Taxation will usually contact you by letter, although you may be contacted by phone or e-mail to set up the initial appointment. We will then send you a letter confirming the appointment and describing the books and records you must make available. Most field audit appointments will be at your place of business.

How long will an audit take?

A field audit typically covers a 3 year period, and can take anywhere from several days to several months to complete. The duration of the audit will depend on the complexity of the returns being audited and on the timely availability, completeness, and accuracy of your records.

What if I disagree with the findings of an audit?

If you do not agree with the Nation Department of Taxation's final audit findings you may formally appeal the audit findings through the Nation Tax Commission appeals process, as outlined in the Nation's Tax Rules available from the Nation Department of Taxation.

What are the Nation Department of Taxation's Recordkeeping requirements?

What are the recordkeeping requirements of the Nation Department of Taxation?

As a Nation sales tax vendor, you must keep accurate records that contain all the information you need to prepare your tax returns and to verify their accuracy in case you are audited by the Nation Department of Taxation. No one set of record-keeping rules applies to all vendors. Your records must be appropriate for your particular operation or business and any record-keeping systems or equipment you use. Records may be kept in paper or electronic format. If you choose to keep records in electronic format, they must actually reproduce the original record.

How long should I keep records related to Nation tax?

Your Nation tax records must be kept for at least 3 years after the due date of the last return to which they relate or the date the return was filed, if later. Your records must be made available to the Nation Department of Taxation upon request. If you have any tax matter pending with the Nation Department of Taxation for a period more than three years, the records for that period should be kept until the matter is resolved.



What types of records must be kept for Nation sales tax purposes?

The following are types of business records that must be kept for Nation sales tax purposes:

- Records of all sales on Nation Land, including:
 - the amount paid, charged, or due on the sale or transaction, along with any subsequent return or credit information related to the sale or transaction;
 - the Nation sales tax due, if any, on the sales transaction;
 - a copy of any written sales slip, invoice, receipt or other evidence of price, amusement charge or hotel or motel rent that you give your customer;
 - a daily record of all cash, debit and credit sales;
 - the location where the sale was made, or if applicable, where delivery was made; and
 - an exemption certificate/document, where required, associated with each exempt sale you make.

Any other record or document which, given the nature of your business, would be necessary to prove that you have collected and paid the proper amount of Nation sales and use tax due.

What if I fail to maintain proper records?

If your business records are adequate as described above, and the Nation Department of Taxation conducts a Nation sales tax audit on your business, the Department will conduct a full audit examination using all of your business records, unless you consent to a test period or statistical sample audit.

However, if the auditors properly conclude that your business records are not adequate, they may elect to use an estimated audit method that is reasonably designed to calculate your Nation sales tax liability.

You should also be aware that you may be held personally responsible for the Nation sales tax liability of your business. In addition, your failure to keep adequate records may result in the suspension or revocation of your Certificate of Authority. If your Certificate of Authority is suspended or revoked, you must discontinue making sales of taxable tangible personal property or services or tax exempt purchases, such as purchases for resale.

This information is designed to provide general guidance. It is accurate as of the date above, but taxpayers should be aware that subsequent changes in the regulations or their interpretation may affect the accuracy of this information. The information provided in this document does not cover every situation and is not intended to replace any regulation or change its meaning.