



# Oneida Indian Nation Tax Rules

## Effective as of March 5, 2014

---

### I. RULES OF THE NATION DEPARTMENT OF TAXATION

- A. The Oneida Nation has authorized the creation of the Nation Department of Taxation with responsibility for interpreting and implementing Oneida Indian Nation Tax Ordinance No. O-13-01 (the “Ordinance”) and to promulgate rules, administrative guidelines, decisions and such other pronouncements as it deems appropriate, each subject to review and approval by the Nation Representative(s) and/or his designee, in order to fulfill the purposes of the Ordinance.
- B. These Rules are not all-inclusive, but are an adjunct to, and must be read in connection with, the Ordinance. To the extent standards are not already covered in these Rules, any taxes imposed under the Ordinance shall meet or exceed the standards contained in the State Tax Laws in all respects, including, without limitation, with respect to definitions, the rate and base of tax, collection and remittance of such taxes, exemption from tax, tax holidays, enforcement, recordkeeping, and reporting and registration.
- C. The Nation Department of Taxation has promulgated administrative guidelines for the Nation and its wholly-owned business enterprises and entities with respect to any administrative process, registration and/or reporting requirements otherwise required by these Nation Department of Taxation Rules.

### II. TAXABLE SALES AND TRANSACTIONS

- A. The following taxes are imposed upon the sale of goods and services occurring within the boundaries of Nation land pursuant to the Ordinance.
  - (1) Sales Tax. A tax on sales of goods sold and services performed by any seller or service provider, as the case may be, on Nation land.
  - (2) Occupancy Tax. A tax on the retail sale of all lodging services provided at any commercial hotel, motel, or similar establishment located on Nation land.
  - (3) Cigarette and Other Tobacco Product Excise Tax. A tax on cigarettes and other tobacco products possessed, transported, sold or conveyed by any seller on Nation land.
  - (4) Fuel Excise Tax. A tax on motor fuel and highway diesel motor fuel imported, possessed, transported, sold or conveyed by any seller on Nation land.
  - (5) Other Tax. Any other tax, not otherwise listed in these Rules, that (i) the Intergovernmental Agreement explicitly provides shall be imposed by the Nation on sales of goods and services on Nation land or (ii) the Department of Taxation determines, and the Nation Representative(s) or his designee approves, shall be imposed as reasonable and appropriate in furtherance of the Nation’s governmental interests and not inconsistent with the provisions of the Ordinance.
- B. See Exhibit A for the Nation Tax Table summarizing tax types, description of tax, forms and instructions, and rates.



### III. SALES TAX

- A. Taxable goods and services. Vendors who sell goods and services on Nation Lands are required to collect and remit Oneida Nation sales tax on all taxable goods and services. Goods and services that are taxable under Oneida Nation law are the same goods and services that are taxable under New York State sales tax law; provided that the Nation Department of Taxation may impose taxes on goods and services which are exempt under New York State sales tax laws.
- B. Rate. The sales tax rate is 8.75% on Nation Land located within Oneida County and 8.0% on Nation Land located within Madison County. The Nation Department of Taxation may adjust this rate from time to time but in no event will the rate be less than the New York State and corresponding County tax rate. The Nation Department of Taxation may authorize “tax holidays” but no more frequently than the State or Counties permit.
- C. Collection & Remittance. Vendors must collect sales tax from the end purchaser at the time of sale and remit the sales tax to the Nation Department of Taxation on or before the due date for the filing of the return for the reporting period, without regard to whether a return is filed and whether the return filed is correct or complete. The amount of sales tax is due and payable whether or not it has been collected by the vendor from the purchaser. The tax to be collected is to be stated and charged separately from the purchase price on the purchaser’s receipt and shown separately in the vendor’s records.
- D. Reporting. Each vendor must submit a monthly sales tax report on Form OST-808, 809 or 810 to the Nation Department of Taxation no later than the 20th day of the following calendar month or the next business day if such due date falls on a Saturday, Sunday or Federal holiday. Penalties and/or interest may apply for late filings and/or payments. In addition, a bad check or failed electronic withdrawal fee may be imposed for any amount due that is returned without payment.

### IV. USE TAX

Use tax rates, procedures and reporting shall be consistent with Sales tax procedures. The Oneida Nation and its wholly owned business and enterprises are exempt from Oneida Nation use tax. This Oneida Nation exemption extends to complimentary goods and services used by Turning Stone.

### V. OCCUPANCY TAX

- A. Taxable goods and services. Vendors who conduct retail sale of lodging services on Nation land are required to collect and remit Oneida Nation occupancy tax on all taxable rooms.
- B. Rate.
  - (1) The occupancy tax rate is 2% on Nation Land located within Oneida County and 4% on Nation Land located within Madison County. The Nation Department of Taxation may adjust this rate from time to time but in no event will the rate be less than the New York State and corresponding County tax rate.
  - (2) This tax is not applicable for permanent residents. A “permanent resident” is a person who occupies any room for at least thirty (30) consecutive days.
- C. Collection & Remittance. Vendors must collect occupancy tax from the end purchaser at the time of sale and remit the occupancy tax to the Nation Department of Taxation on or before the due date for the filing of the return for the reporting period, without regard to whether a return is filed and whether the return filed is correct or complete. The amount of occupancy tax is due and payable whether or not it has been collected by the vendor from the purchaser. The tax to be collected is to be stated and charged separately from the rent on the purchaser’s receipt and shown separately in the vendor’s records.



- D. Reporting. Each vendor must submit a monthly occupancy tax report on Form OOT-101 to the Nation Department of Taxation no later than the 20th day of the following calendar month. Penalties and/or interest may apply for late filings and/or payments or the next business day if such due date falls on a Saturday, Sunday or Federal holiday. In addition, a bad check or failed electronic withdrawal fee may be imposed for any amount due that is returned without payment.

## **VI. CIGARETTE EXCISE TAX**

- A. Taxable Product. There shall be an Oneida Nation excise tax imposed on cigarettes possessed, transported, sold or conveyed by any vendor on Nation land.
- B. Rate. Excise tax is imposed at the rate of \$4.35 per package of twenty cigarettes (\$43.50 per carton). The Nation Department of Taxation may adjust this rate from time to time but in no event will the rate be less than the New York State tax rates.
- C. Collection & Remittance. Each wholesaler shall affix a Nation tax stamp on each pack of cigarettes possessed, transported, sold or conveyed on Nation land prior to sale to any retailer. The cigarette excise tax is incurred by the wholesaler upon the sale of cigarettes to a retailer on Nation land and the wholesaler must remit the tax to the Nation Department of Taxation on or before the due date for the filing of the return for the reporting period, without regard to whether a return is filed and whether the return filed is correct or complete. The amount of excise tax is due and payable whether or not it has been collected by the wholesaler from the retailer. The tax to be collected is not to be stated and charged separately from the price on the retailer's invoice, but is to be shown separately in the wholesaler's records. No cigarettes may be sold by a wholesaler or retailer without a cigarette tax stamp.
- D. Reporting. Each wholesaler shall submit a monthly tax form (Form OCT-101) to the Nation Department of Taxation no later than the 20th day of the following calendar month or the next business day if such due date falls on a Saturday, Sunday or Federal holiday. Penalties and/or interest may apply for late filings and/or payments. In addition, a bad check or failed electronic withdrawal fee may be imposed for any amount due that is returned without payment.

## **VII. OTHER TOBACCO PRODUCT EXCISE TAX**

- A. Taxable Product. There shall be an Oneida Nation excise tax imposed on all other tobacco products possessed, transported, sold or conveyed by any seller on Nation Lands.
- B. Rate. Excise tax is imposed at the rates set forth below. The Nation Department of Taxation may adjust this rate from time to time but in no event will the rate be less than the New York State tax rates.
- (1) 75% of the wholesale price on cigars and tobacco products (other than little cigars and snuff).
  - (2) \$4.35 per twenty little cigars.
  - (3) \$2 per container of snuff one ounce or less, and \$2 per ounce and a proportionate rate on any fractional amount thereof for containers with more than one ounce.
- C. Collection & Remittance. The other tobacco product excise tax is incurred by the wholesaler upon the sale of cigarettes to a retailer on Nation land and the wholesaler must remit the tax to the Nation Department of Taxation on or before the due date for the filing of the return for the reporting period, without regard to whether a return is filed and whether the return filed is correct or complete. The amount of excise tax is due and payable whether or not it has been collected by the wholesaler from the retailer. The tax to be collected is to be stated and charged separately from the price on the retailer's receipt and shown separately in the wholesaler's records.



- D. Reporting. Each wholesaler shall submit a monthly tax form (Form OMT-203) to the Department of Taxation no later than the 20th day of the following calendar month or the next business day if such due date falls on a Saturday, Sunday or Federal holiday. Penalties and/or interest may apply for late filings and/or payments. In addition, a bad check or failed electronic withdrawal fee may be imposed for any amount due that is returned without payment.

### VIII. FUEL EXCISE TAX

- A. Taxable Product. There shall be an Oneida Nation fuel tax on motor fuel and highway diesel motor fuel imported, possessed, transported, sold or conveyed by any vendor on Nation land. Propane not destined or designated for use as motor fuel and dyed kerosene (not for highway use) are exempt from the motor fuel excise tax.
- B. Rate. Excise tax is imposed at the rates set forth below. The Nation Department of Taxation may adjust this rate from time to time but in no event will the rate be less than the New York State tax rates.
- (1) \$0.0805 per gallon Oneida Nation Motor Fuel Tax. (\$0.08 per gallon for diesel fuel)
  - (2) \$0.169 per gallon Oneida Nation Gross Receipts Tax (\$0.1515 per gallon for diesel fuel)
  - (3) \$0.0800 per gallon Oneida Nation Fuel Sales Tax
  - (4) 4.75% of sales price Oneida Nation Fuel Sales Tax on Nation Land located within Oneida County.  
4.00% of sales price Oneida Nation Fuel Sales Tax on Nation Land located within Madison County
- C. Collection & Remittance. Vendors must collect the fuel excise tax from the end purchaser at the time of sale and remit the excise tax to the Nation Department of Taxation on or before the due date for the filing of the return for the reporting period, without regard to whether a return is filed and whether the return filed is correct or complete. The amount of excise tax is due and payable whether or not it has been collected by the vendor from the purchaser. The tax to be collected is to be stated and charged separately from the price on the purchaser's receipt and shown separately in the vendor's records.
- D. Reporting. Each vendor shall submit a monthly excise tax form to the Nation Department of Taxation no later than the 20th day of the following calendar month or the next business day if such due date falls on a Saturday, Sunday or Federal holiday. Penalties and/or interest may apply for late filings and/or payments. In addition, a bad check or failed electronic withdrawal fee may be imposed for any amount due that is returned without payment.

### IX. EXEMPTIONS

- A. Any exemptions recognized by New York State from any corresponding New York State taxes are recognized and accepted under Oneida Nation tax law, subject to receipt of proper documentation as the Department of Taxation's rules require.
- B. With respect to in-person retail sales occurring on Nation land, the Nation or any entity owned directly or indirectly by the Nation, shall exclude sales tax from sales made to an individual enrolled in a Federally recognized Indian tribe who shows evidence of enrollment at the time of sale; provided, however, with respect to in-person retail sales of cigarettes, the exemption shall not apply to any cigarette purchases above ten (10) cartons per week.



## X. VENDOR REGISTRATION

- A. Registration of vendors. Every person or entity that requests to have a place of business on Nation land to sell goods or services on Nation land on an on-going basis must first file an Application for Retail License and Certificate of Authority with the Nation Department of Taxation. The applicant may not commence any such activity until it receives a Retail License and Certificate of Authority from the Nation Department of Taxation. The Nation Department of Taxation may charge a fee to submit an Application for Retail License and Certificate of Authority.
- B. Registration of show vendors. Every person or entity that has no place of business on Nation land who intends to display for sale or sell tangible personal property or services subject to tax at a performance, flea market, craft show, antique show, or any similar show or event on Nation land must first file an Application for Exhibitors License and Certificate of Authority for each show. The applicant may not commence any such activity until it receives an Exhibitors License and Certificate of Authority from the Nation Department of Taxation.
- C. License and Certificate Issuance. The Nation Tax Department will, within 7 days after the receipt of an acceptable application, issue the applicable certificate and/or license.
- D. Failure to Obtain License or Certificate. Any person or entity that fails to obtain the appropriate certificate or license prior to commencing activity may be subject to a penalty 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.
- E. Display of Licenses and Certificates. Each license must be prominently displayed at each place of business of the registrant. A registrant who has no fixed place of doing business must attach such certificate to the registrant's cart, stand, truck, or other merchandising device.
- (1) A show promoter must not permit any person to display for sale or sell tangible personal property or services subject to tax at a show unless such person has obtained a certificate of authority and properly displays such certificate.
  - (2) Any person failing to display the appropriate license may be subject to a \$50 penalty.
- G. Amending the License or Certificate. A registered vendor is required to notify the Nation Tax Department within twenty (20) days if any of the following changes are made:
- (1) there is a change in the form of the business;
  - (2) there is a change in the name of the business;
  - (3) there is a change in the address of the business, including an additional place of business at a new location;
  - (4) there is a change in the name or address of an owner;
  - (5) there is a change in the responsible persons of the business, including those responsible for collecting or paying tax;
  - (6) there is a change in trade name; or
  - (7) there is a change in business activity.
  - (8) Any person failing to furnish data with respect to changes in any of the information listed on a license or certificate may be subject to a \$50 penalty.



#### H. Surrender of Licenses and Certificates.

- (1) Licenses and certificates are not transferrable and must be surrendered to the Nation Department of Taxation within 20 days of the registrant's ceasing to do business, and must accompany the final return. Ceasing to do business means that the registrant is no longer operating the business even though the business may continue.
- (2) Upon surrendering the license or certificate, the vendor must complete the reverse side of the license or certificate and indicate the details of the sale or other disposition of the business. Where a license or certificate has been lost, stolen, destroyed or is otherwise unreturnable to the Nation Department of Taxation, the owner, partner or responsible officer of a vendor which was issued such license or certificate is required to notify the Nation Department of Taxation that such license or certificate cannot be returned, stating the specific reasons for such failure. The notification must be in written form, signed by the owner, partner or responsible officer and received within 20 days of the registrant's ceasing to do business.
- (3) A show vendor must surrender the vendor's certificate of authority to the Nation Department of Taxation, together with a final return of the vendor, within 20 days after the conclusion of the show for which the permit was issued.
- (4) Any person who assigns or transfers a license or certificate or who fails to surrender a license or certificate may be subject to a \$50 penalty.

#### XI. AUDITS

- A. The Nation Department of Taxation has the right to periodically conduct audits of vendor books and records to ensure accuracy of amounts reported to it and compliance with the Ordinance, and these Rules.
- B. Upon audit by the Nation Department of Taxation, or at such other times as the Department requests, the vendor or user must present records kept in a manner suitable to determine the correct amount of tax due, together with such documentation, summaries and schedules as the Nation Department of Taxation may request. The vendor or user may elect to retain records as hard-copy records, electronic records, or both.
- C. Vendors must retain, and make available for inspection by the Nation Department of Taxation, books and records for a period of at least three (3) year from the due date of the return to which they relate, or the date of filing, if later.
- D. The Nation Department of Taxation may issue a decision or ruling based on the results of the audit.

#### XII. APPEALS

- A. Right to Appeal. Any taxpayer or person who wants to challenge or appeal a decision or ruling of the Nation Department of Taxation may appeal the decision or ruling to the Oneida Indian Nation Tax Commission in accordance with this rule.
- B. Time; Notice of Appeal. Except as otherwise provided, within thirty (30) days from receipt of a decision or ruling from the Nation Department of Taxation, the taxpayer must file with the Tax Commission a written Notice of Appeal in the form provided by the Tax Commission specifying the following information in support of his or her appeal:
  - (1) The decision or ruling that is being appealed;
  - (2) The basis, under these rules and under the Ordinance (Ordinance No. O-13-01), for taxpayer's belief in the grounds for his appeal;



- (3) A full description of any facts supporting the appeal, and a statement as to which facts, if any, are in dispute between the parties;
- (4) References to any documents or other factual materials supporting the appeal, which should be included as numbered appendices to the statement of support. If copies of such documents are not available, the statement of support should include an explanation as to the reason; and
- (5) Any other information the appellant wishes to include for consideration by the Tax Commission in its review of the appeal.

The Tax Commission shall provide a copy of the Notice of Appeal to the Nation's Director of Taxation and request a copy of the record for the decision or ruling that is being appealed from the Nation's Director of Taxation within five (5) business days of filing. The record shall be provided to the Tax Commission (with a copy to the taxpayer) within five (5) business days of the Tax Commission's request.

- C. Method of filing. All documents related to appeals may be filed in person with the Tax Commission, by mail or private carrier to:  
Oneida Indian Nation Tax Commission,  
c/o Oneida Nation Court, 1256 Union Street, Oneida, NY 13421,  
Attention: Tax Commissioner.
- For documents filed in person, by mail, or by private carrier, an original and one additional photocopy shall be filed with the Tax Commission. Any documents filed by mail or e-mail are not deemed to have been filed until the date that they are received by the Tax Commission. It is the taxpayer's responsibility to ensure that documents filed by mail, private carrier, or e-mail are received in their entirety by the Tax Commission prior to applicable filing deadlines
- D. Filing Fee. An appeal must be accompanied by a filing fee of \$75.00 made payable to "Oneida Indian Nation". A Notice of Appeal is not deemed to have been filed until payment of the filing fee is received by the Tax Commission.
- E. Department of Taxation's Response. Within twenty (20) days after receipt of the taxpayer's Notice of Appeal, the Department of Taxation shall prepare a written response, including supporting documentation, to the information presented and arguments made by the taxpayer, and shall cause a copy of its response to be provided to each member of the Tax Commission, and to the taxpayer. The copy provided to the taxpayer shall be provided via hand-delivery, mail, or private carrier.
- F. Other filings and responses. No other filings or responses other than those outlined in these rules shall be permitted unless expressly requested by the Tax Commission. In the event that the Tax Commission requests additional information or submissions, written notice shall be sent to both the taxpayer and the Department of Taxation, and shall specify the deadlines for any additional filings and responses.
- G. Basis for Decision. The Tax Commission shall decide all cases upon the submissions outlined above.
- H. Review of Appeals. Appeals shall be reviewed by the Tax Commission in such a manner as to do substantial justice between the parties according to the substantive laws of the Oneida Indian Nation. The burden of proof shall be upon the taxpayer except as otherwise provided by applicable law.
- I. Decision. Within thirty (30) days of receipt of the Department of Taxation's response (or of the final filing or response permitted by the Tax Commission), the Tax Commission shall issue a written decision either granting or denying the appeal, which shall include an explanation for its decision. All decisions and rulings of the Tax Commission shall be final and binding, and shall not be subject to review, modification, or further appeal.



Type of Tax	Description of Tax	Form No.	Rate
<b>Sales Tax</b>			
Sales and Use Tax	Sales Tax on Product/Services that are deemed taxable except as listed below	OST-808, 809, 810	8.75% on Nation Land located within Oneida County 8.0% on Nation Land located within Madison County
Motor Fuel and Highway Diesel Motor Fuel Sales Tax	Sales Tax on Motor and Diesel Fuel computed on a cents per gallon and % basis	OST-810.10	\$0.08/Gallon plus 4.75% of the sale price on Nation Land located within Oneida County 4.0% of the sale price on Nation Land located within Madison County
<b>Fuel and Excise Tax*:</b>			
Motor Fuel	A combined petroleum tax of \$0.169 and an excise tax of \$0.0805 and levied at point of delivery to the retailer	OPT-100	\$0.2495/Gallon
Highway Diesel Motor Fuel	A combined petroleum tax of \$0.1515 and an excise tax of \$0.08 and levied at point of delivery to the retailer	OPT-101	\$0.2315/Gallon
Non-Highway Motor Fuel (Dye "Red" Fuel) (Commercial Gallonage)	A petroleum tax levied at point of delivery to stationary tank or fuel truck	OPT-102	\$0.093/Gallon
<b>Cigarette and Tobacco Excise Tax*</b>			
Cigarettes**	An excise tax imposed on tobacco products when Oneida Wholesale sells the product	OCT-101	\$4.35/pack \$43.50/carton
Large Cigars and Pipe Tobacco	An excise tax imposed on tobacco products when Oneida Wholesale sells the product	OMT-203	75% of the wholesale price
Little Cigars	An excise tax imposed on tobacco products when Oneida Wholesale sells the product	OMT-203	\$4.35 per twenty little cigars
Snuff	An excise tax imposed on tobacco products when Oneida Wholesale sells the product	OMT-203	\$2 per one ounce or less and \$2 for each additional ounce plus a proportionate rate on any fractional amount
<b>Other Taxes:</b>			
Occupancy Tax*	A tax imposed on room rent at lodges, hotels, motels and cabins	OOT-101	2% of room rent on Nation Land located within Oneida County; 4% of room rent on Nation Land located within Madison County
Authorized Combative Sports Tax	A tax imposed on promoters of authorized combative sports events based upon gross receipts	OMT-160	<u>Boxing, sparring or wrestling events:</u> 3% of ticket sales capped at \$50,000 3% of Broadcast rights capped at \$50,000 <u>Kick boxing, single discipline martial arts or MMA events:</u> 8.5% of ticket sales, 3% of broadcast and digital streaming rights over the internet capped at \$50,000.

\*These taxes are in addition to Nation Sales Tax  
\*\*Also subject to federal excise Tax.