



December 31, 2021

Dear Restaurant Owner:

If you currently lease space on Indian land, please see the important information below regarding your California sales and use tax obligations. This information addresses recent amendments to Regulation 1616, *Federal Areas*, that clarify when California's sales and use tax applies to sales and purchases of meals, food, and beverages sold on a reservation by non-Indian retailers.

When Tax Does Not Apply

The sale and purchase of meals, food, and beverages sold on a reservation by a non-Indian to a non-Indian or an Indian who does not reside on a reservation are not subject to California sales and use tax, provided all of the following requirements are met:

- A sales or use tax is imposed by an Indian tribe on the sales or purchases of meals, food, and beverages,
- The non-Indian retailer's business is operated on a reservation under a federally authorized lease or sublease,
- The non-Indian retailer's business is an eating or drinking establishment, such as a restaurant or bar, and
- The meals, food, and beverages are sold and purchased for consumption on the Indian reservation.

"On a reservation" means within the boundaries of Indian Country as defined in section 1151 of Title 18 of the United States Code, and includes reservations, rancherias, and any land held by the United States in trust for any Indian tribe or individual Indian.

When Tax May Apply

The amendments to Regulation 1616 include the presumption that meals, food, and beverages sold or purchased from an eating or drinking establishment's drive through counter or window located on an Indian reservation are for consumption off the reservation. Therefore, California sales or use tax generally applies to the sale or purchase of meals, food, and beverages sold from a drive through counter or window on a reservation. The recent amendments also clarify that sales or use tax applies to the sale or purchase of meals, food, and beverages sold or purchased for delivery off a reservation.

For more information about these changes and other Native American concerns, please see our [Tax Guide for Restaurant Owners](#) and [American Indian Tribal Issues](#) webpage.

If you have any questions, please email us at AmericanIndianPolicyContact@cdtfa.ca.gov.

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION